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JOURNAL

OF THE

SENATE

SESSION OF 1971

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EVANS PRINTING COMPANY, CONCORD, N. H.

Wednesday

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The Clerk called the Senate to order at 11 o'clock.

The Clerk called the Roll which showed all Senators present as follows: Lamontagne, Poulsen, S. Smith, Snell, Townsend, Gardner, Jacobson, Spanos, Nixon, Bradshaw, English, Porter, Leonard, Ferdinando, R. Smith, Morrissette, McCarthy, Provost, Brown, Marcotte, Koromilas, Downing, Tufts and Foley.

At that time, on the first Wednesday in January, in the year of our Lord, one thousand nine hundred and seventy-one, being the day prescribed by the Constitution for the Legislature of New Hampshire to assemble at the Capitol in the City of Concord in said State, and His Excellency the Honorable Walter Peterson, Governor, and the Executive Council, having come into the Senate Chamber, took and subscribed the oaths of office and witnessed the signing of the oath by each individual Senator, and were duly qualified as Senators agreeably to the provisions of the Constitution, namely:

- District No. 1. Laurier A. Lamontagne
- Dist. No. 2. Andrew J. Poulsen
- District No. 3 Stephen W. Smith
- District No. 4. Edward A. Snell
- District No. 5. Howard C. Townsend
- District No. 6. Edith B. Gardner
- District No. 7. Alf E. Jacobson
- District No. 8. Harry V. Spanos
- District No. 9. David L. Nixon
- District No. 10. John R. Bradshaw
- District No. 11. Robert English
- District No. 12. Frederick A. Porter
- District No. 13. Richard W. Leonard
- District No. 14. Richard F. Ferdinando
- District No. 15. Roger A. Smith
- District No. 16. George H. Morrissette
- District No. 17. William J. McCarthy

District No. 18. Paul E. Provost
District No. 19. Ward B. Brown
District No. 20. Ronald J. Marcotte
District No. 21. James Koromilas
District No. 22. Delbert F. Downing
District No. 23. Arthur Tufts
District No. 24. Eileen Foley

Sen. English moved that Sen. Jacobson be elected temporary presiding officer.

Seconded by Sen. Townsend.
Adopted.

The Clerk requested Sens. Gardner and Spanos to escort the temporary presiding officer to the rostrum.

The presiding officer asked for nominations for the office of President of the Senate.

Sen. Stephen W. Smith nominated Sen. John R. Bradshaw for the office of President of the Senate.

Seconded by Sen. Nixon.

Sen. S. SMITH: It gives me great pleasure to place in nomination the name of John R. Bradshaw of Nelson as President of the 1971 State Senate.

I do this with the feeling in that I have known him since the 1965 session of the House; I believe that he has the experience (two sessions in the House and two in the Senate as Majority leader) to fulfill the function as President of this body. I think he has shown concern with the problems of the State of New Hampshire. I believe also that he has the ability to lead this body in being an effective Senate for 1971. I believe also that he will show fairness in his decisions.

Sen. NIXON: I have the honor of seconding the name of John R. Bradshaw of Nelson to the high position as President of the New Hampshire Senate for the ensuing legislative session.

I believe very strongly and deeply, particularly with the profound problems that face New Hampshire at this time, that he is the best qualified, to lead this body in making decisions for the State of New Hampshire.

Sen. Foley nominated Sen. Spanos for the office of President of the Senate.

Seconded by Sen. Downing.

Sen. FOLEY: It is with real pleasure that I place the name of Harry V. Spanos. He has been the Minority leader for the past two terms and has done an excellent job and is qualified for this position.

Sen. Stephen Smith moved that the nominations be closed and that the vote be by standing vote.

Sen. Lamontagne requested a Roll Call vote.

The following voted for Sen. Bradshaw: Sens. Lamontagne, Poulsen, S. Smith, Snell, Townsend, Gardner, Jacobson, Nixon, Bradshaw, English, Porter, Leonard, Ferdinando, R. Smith, Morrisette, Brown, Koromilas and Tufts.

The following voted for Sen. Spanos: Spanos, McCarthy, Provost, Marcotte, Downing and Foley.

Eighteen Senators having voted for Sen. Bradshaw and six Senators having voted for Sen. Spanos, the Chair declared Sen. Bradshaw to be the duly elected President of the Senate for the 1971 session.

Sen. Spanos moved the election of Sen. Bradshaw be made unanimous. Seconded by Sen. Provost.

Adopted.

The presiding officer requested Sens. Stephen W. Smith and Spanos to escort the President to the rostrum.

Sen. BRADSHAW presiding.

The PRESIDENT addressed the Senate as follows: It is indeed a privilege and an honor to stand here today as the President of this, the first branch of the Legislature.

It is also an occasion for appreciation. I thank my constituents for their continued confidence, which has made it possible for me to fill this high office. I also give thanks to my Republican colleagues for choosing me as their nominee for President, and my Democratic colleagues for their generosity in making my election unanimous.

I hope this cooperative spirit will continue so that we may work together to improve the common welfare.

Finally, I thank my wife for so willingly allowing me to indulge in legislative affairs, even to the extent of frequently upsetting personal plans.

This is certainly an honor you have bestowed upon me. I will diligently try to merit it. With this honor goes an awesome responsibility — a trust one must be willing to accept even before election. If not, the body is deprived of the leadership and organization in the early part of the session that it has every right to expect.

We are undertaking a new project this year to more economically utilize our limited funds. The Legislature now has “in house” printing facilities which should save the State some \$10,000 during this session, just in the printing of bills. With this project, we also hope to help rehabilitate some of the inmates at the State Prison by giving them paying jobs while they learn a useful trade on modern equipment.

In fairness to all Senators, it is my intention to start the sessions promptly at the designated hour. There may of course be unusual circumstances which might cause a delay. But except for such infrequent occasions, the chosen hour will be respected.

I would hope that we could come at least a step closer to living up to our constitutional responsibility which gives the General Court, and only the General Court, “the full power and authority . . . to make, ordain and establish all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions and instructions”. Many years ago, it appears that the Legislature abjugated much of this responsibility to the Executive Branch — perhaps because it did not want the tremendous burden of that responsibility — perhaps because it lacked the tools to work with — perhaps a combination of these and other factors.

Nevertheless, I believe the time has come when the Legislature should accept its constitutional burden and provide itself with the tools to carry out its responsibility to the citizens of this state.

I will seek to establish a group of researchers to assist all

members of the Senate in getting in-depth information on bills and other proposals. We should also have available people with specialized skills where warranted.

The staff of LBA has been materially improved in the past few months so that now we are getting meaningful audits. Soon we will be getting performance audits so that we, the members of the General Court, will have information upon which to judge the effectiveness of our programs.

We have among us this session some people with most outstanding legislative records:

The Senator from the 6th District is the distinguished past President of the National OWLS. Senator Gardner is starting her 6th term in the Senate after having served 5 terms in the House.

The Senators from the 1st and 11th District share the setting of an all-time record for this 187 year old body by starting their ninth consecutive biennial terms.

They are Senators Robert English of Hancock and Laurier Lamontagne of Berlin. They are setting an all-time record for this 187 year old body by starting their ninth consecutive biennial terms, covering a period of 18 years.

Senators English and Lamontagne have now broken the previous record of eight consecutive two-year terms set in 1961 by Mrs. Marye Walsh Caron of Manchester, who then went on to become the only woman ever appointed to the State Liquor Commission.

Senator English, at 67, is a retired U. S. diplomatic service official who has produced an enviable record of service in the Senate, while promoting educational facilities. He is President of Monadnock Community College, and has pioneered proposed return of this General Court to annual sessions, a much needed legislative reform.

Senator Lamontagne, a youthful 53, needs no introduction, for his championing of veterans' affairs and the welfare of his North Country constituents, has made him virtually a Senate fixture. His proud boast — and rightfully so — is that he has never missed a single day's Senate session throughout his 16 years of service.

Legislative records give attest to this record-breaking achievement held jointly by English and Lamontagne. The Senate's previous all-time service mark, since its constitutional life began in 1784, was set in 1803 by Amos Shepard of Alstead when he completed 15 years, when annual sessions were the vogue. The next highest, of eight one-year reelections, was set in 1815 jointly by Joshua Darling of Henniker and Moses P. Payson of Bath.

We face a session replete with large and complex problems — all of which need solutions — solutions based on priorities, needs and the ability of this state to handle them — not for political purposes but for the betterment of the general welfare.

I think we could all agree that there are many areas of state government that need to be improved to better serve the changing times. From this point, we must establish priorities — not based on a particular individual's choice but priorities based on careful analysis and evaluation.

State services cost money — money which frequently does not come from the recipients of those services but from people willing to pay for the needs of their fellow man. This source is not a bottomless barrel and we must be cognizant of this fact when we consider new or expanded services and be prepared to find ways to pay for them. If the integrity of the State is lost, the program or service, regardless of its popularity, is doomed to failure.

The first bill to be considered will be one which will allow the State to meet its obligations while the General Court weigh with cool heads the true extent of our financial problems. We do have a problem but we do not have meaningful facts and figures at this time to permit us to make an intelligent decision of long range benefit to the State.

In recent years the Senate has taken many steps to make it truly the upper branch of the General Court. Former Presidents instituted several improvements including researchers and most markedly in my opinion was the in-depth work of the former Chairman of Senate Finance Committee, George Gilman, who studied the oft forgotten ramifications of the state's bonded indebtedness and created for the first time in recent years, a Senate version of the operating budget which allowed the Senate an opportunity to take a long hard look at state expenditures.

We must now actively work with our sister states in assuring that the states have a voice in the development of programs which Washington has thrust upon us. One effective way is to be active in the National Association of Legislative Leaders Conference.

One of the many areas where money alone will not cure our problems is in the area of pollution. Each year our Highway Department spends \$200,000 to overcome the sight pollution caused by people writing obscenities and otherwise defacing bridges, rocks and signs.

Each year our Highway Department spends \$250,000 to pick up the pollution of trash strewn along our highways. Each year our Parks Division spends \$50,000 to pick up the pollution of trash strewn in our beautiful parks. Each year untold numbers of people are injured because of the pollution of bottles, cans and the like carelessly disposed of.

Each year our lakes, streams, fields and woods are polluted by an array of trash and callousness. These areas of pollution could be stopped and our environment considerably improved — not by the expenditure of huge sums of money but by the thoughtfulness of each citizen of the world. If we can't convince people to each do their part, then we must impose heavy penalties so they can't afford to pollute.

A word about conference committees. It is my belief that conference committees were established to work out the honest differences between the two houses, that they should be entered into with people willing to discuss the differences and work out amiable solutions. I do not believe anyone should enter a committee of conference with a belligerent attitude. I would hope that the Senators chosen would act wisely and with high standards — AND I would caution the House members that they too should act in like manner. Belligerence leads to frustrations, and the net result is deteriorating effectiveness of the legislative process.

I close with a quote I saw recently; A politician thinks of the next election — a statesman thinks of the next generation. I trust this Senate has a generous supply of statesmen.

Sen. SPANOS: In behalf of the Minority membership, we wish you a very successful tenure as President of this body.

Having served with you in the House and in the Senate, I am confident that you will perpetuate the practice of fair play characteristic of your predecessors.

Mr. President, this session may be one of the most crucial in the history of our State. It *will* demand of each of us that which is the *best* in us. I hope as you do, Mr. President, that in these trying times that the Senate has a generous supply of statesmen.

You have our solemn pledge that the Minority membership will cooperate in every way to make this Chamber a responsible and responsive body — all in the best interests of the people we represent.

Again, our warmest congratulations.

Sen. LAMONTAGNE: I would like to say that I certainly want to wish you a good year and offer my congratulations and support.

ANNOUNCEMENT BY THE CHAIR

The President announced that Sen. Stephen W. Smith would serve as Majority leader. Sen. Spanos would serve as Minority leader. Sen. Roger A. Smith would serve as Chairman of the Senate Finance Committee.

RESOLUTIONS

Sen. Gardner offered the following Resolution:

Resolved, that Wilmont S. White as Clerk; Roger C. Quimby as Assistant Clerk; Milo Cheney as Sergeant-at-Arms; and Merton Webber as Doorkeeper, be elected by acclamation.

Adopted.

The President administered the oath of office to the officers of the Senate.

Sens. S. Smith and Spanos offered the following Resolution:

Resolved, that the rules of the 1969 session with changes as follows be adopted as the rules of the 1971 session and further that these rules may be changed by majority vote for the next four legislative days:

NEW RULE:

Rule 16 on line 3 omit "and the words Legislative Council if presented by it" so that Rule 16 now reads

"All petitions, memorials and other papers addressed to the Senate and all bills and resolutions to be introduced in the Senate shall be endorsed with the name of the Senator presenting them, and with the subject matter of the same. Every bill shall be marked on the first page "Senate Bill" and numbered serially; every joint resolution shall be marked "Senate Joint Resolution" and numbered serially; every concurrent resolution proposing a constitutional amendment shall be marked "Concurrent Resolution Proposing a Constitutional Amendment" and numbered serially; and every other concurrent resolution shall be marked "Senate Concurrent Resolution" and numbered serially, as each bill or resolution is introduced into the Senate."

Explanation: We no longer have a Legislative Council which has authority to introduce bills.

Rule 27 strike out the whole rule and insert in place thereof the following:

"The Standing Committees of the Senate shall be as follows:

Banks, Insurance and Claims — five members

Education — five members

Enrolled Bills — 3 members

Executive, Municipal and County Government — five
members

Finance — eight members

Interstate Cooperation — five members, one member of
which shall be the President.

Journal — 3 members

Judiciary — 8 members

Public Health, Welfare and State Institutions — five
members

Public Works and Transportation — five members

Recreation and Development — five members

Resources and Environmental Control — five members

Rules and Resolutions — three members, one member of which shall be the President

Ways and Means and Administrative Affairs — five members

Sen. S. SMITH spoke in support of the motion: I would hope that the Senate would adopt this Resolution which will give us the opportunity of continuing and making progress within the next four days. For the next four days, the rules may be changed by majority vote. This would, as I count the days, bring it through next Wednesday. I would hope that the Senate would go along with this and adopt these rules, as the amendments are shown on the sheet which all of you have. I hope as you read the rules, if you have suggested rule changes, that you will submit them to the Committee on Rules & Resolutions so that the committee may have some ability to look over the suggested rules and also that other members of the Senate will have that opportunity rather than bringing them to the floor. This will give a much better opportunity.

Sen. S. Smith explained the changes.

Sen. TOWNSEND: As I understand Rule 27, Agriculture and Fish & Game were one committee last session. Where do you as President intend to put Agriculture and Fish & Game? To what committee?

The PRESIDENT: If you look in the black book which we use as reference to rules — Rule 27 is not printed as to what we actually adopted in 1969. To find the correct wording, you have to refer to the Journal or the sheet which has been presented to you.

(Discussion)

Sen. JACOBSON: As I understand your remarks, if those Senators have suggested rule changes, will they be brought out within the 4 day limit or will they be buried?

Sen. S. SMITH: They will be reported out.

Sen. KOROMILAS inquired the reason for reducing the number in Ways & Means and Administrative Affairs and in the Executive Depts., Municipal & County Government Committees — from 7 last session to 5 this session.

Sen. S. SMITH: The reasoning behind this is that the Committee on Executive Depts., and the Committee on Ways & Means have many bills that could fall within either category. I think both Committees will try to have a system and work out a system whereby there is an equal work load.

(Discussion)

Sen. Spanos requested a brief Recess.

(Recess)

Question on adoption of the Resolution offered by Sens. S. Smith and Spanos.

Sen. Jacobson offered an amendment putting the membership on the two Committees in question back to 7 instead of 5.

Sen. SPANOS spoke in opposition: I rise in opposition to Sen. Jacobson's motion to amend.

There is much merit to Sen. Jacobson's position but I think we should first proceed to adopt the rules as proposed and then in the next four days present the amendments we wish considered. This appears to be a more orderly procedure.

It will give us all a chance to examine the rules now before us and to make more intelligent decisions concerning same at a later date.

I can assure Sen. Jacobson that I will be very interested in the position that he has articulated this morning.

Sen. LAMONTAGNE spoke in favor of going ahead and adopting the Resolution. Stated he did not favor the change from 5 to 7, but thought this could be ironed out later.

Question on adoption of amendment of Sen. Jacobson.

The Chair was in doubt and requested a Division.

Eight voted in the affirmative. Fifteen voted in the negative.

Amendment Not Adopted.

Resolution Adopted.

ANNOUNCEMENTS

The President announced that Sen. Stephen W. Smith and Sen. Spanos would serve on the Committee on Rules and Reso-

lutions as well as the President who is named in the Rules to serve on that Committee.

The President stated that the Committee on Rules and Resolutions has met to consider the Resolutions that are normally introduced on the opening day of the session.

Sen. S. Smith moved that the rules be so far suspended as to allow Committee Reports from Committee on Rules and Resolutions.

Adopted.

STATE OF NEW HAMPSHIRE Senate Concurrent Resolution No. 1

Now Therefore be it Resolved by the Senate, the House concurring;

That the joint rules of the 1969 session, excepting joint rule 26, be adopted as the joint rules of the 1971 session of the General Court; provided however that said joint rules may be amended by a majority vote in each house at any time prior to January 14, 1971.

COMMITTEE REPORT

Sen. S. Smith for Committee on Rules & Resolutions recommends that SCR No. 1 be adopted with the following amendment:

Eliminate Rule 26 which referred to the 1969 session only.
Adopted.

RESOLUTION

Sen. Jacobson offered the following Resolution:

Resolved, That until otherwise ordered the Senate will meet at 1 P.M.

Referred to Committee on Rules & Resolutions.

COMMITTEE REPORT

Sen. S. Smith for the Committee on Rules & Resolutions recommends that the Resolution ought to pass.

Adopted.

Sen. Provost offered the following Resolution:

Resolved, That the Secretary of State be requested to furnish the Senate with the official return of votes from the various Senatorial Districts.

Referred to Committee on Rules & Resolutions.

COMMITTEE REPORT

Sen. S. Smith for the Committee on Rules & Resolutions recommends that the Resolution ought to pass.

Adopted.

Sen. Townsend offered the following Resolution:

Resolved, That the returns from the several Senatorial Districts be referred to a select committee of three with instructions to examine and count the same and report to the Senate where any vacancies or contest exists and if so, in what Senatorial District.

Referred to Committee on Rules and Resolutions.

COMMITTEE REPORT

Sen. S. Smith for Committee on Rules and Resolutions recommends that the Resolution ought to pass.

Adopted.

Pursuant to the above, the President appointed as members of said select committee Sens. Porter, Jacobson, and Foley, and requested that they retire to attend to their duties.

The President declared a Recess.

(Recess)

The Honorable Robert L. Stark, Secretary of State, appeared and presented the return of votes for Senators from the various Senatorial Districts, as returned to the Secretary's office.

COMMITTEE REPORT

The select committee to whom was referred the various returns of votes for Senators from the several districts, having at-

tended to their duties and having examined the returns made to the Secretary of State and the records in the office of said Secretary, report that they find the state of the vote returned from the several districts as follows:

First District	
Laurier Lamontagne, Berlin, d	4,959
Donald E. Borchers, Berlin, r	3,462
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Plurality for Lamontagne	1,497
Second District	
Andrew W. Poulsen, Littleton, r	5,479
Third District	
Stephen W. Smith, Plymouth, r and d	7,675
Fourth District	
Edward A. Snell, Barrington, r and d	8,832
Fifth District	
Howard C. Townsend, Lebanon, r	4,747
Samuel L. Hays, Lyme, d	2,419
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Plurality for Townsend	2,328
Sixth District	
Edith B. Gardner, Gilford, r	5,386
Joseph Kasper, Laconia, d	2,489
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Plurality for Gardner	2,897
Seventh District	
Alf E. Jacobson, New London, r	5,355
Robert J. Morin, Franklin, d	2,884
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Plurality for Jacobson	2,471
Eighth District	
Harry V. Spanos, Newport, d	4,459
Edward J. Bennett, Goshen, r	4,365
	<hr/>
Plurality for Spanos	94
Ninth District	
David L. Nixon, New Boston, r	8,331

Tenth District

John R. Bradshaw, Nelson, r	3,898
Clesson J. Blaisdell, Keene, d	3,396

Plurality for Bradshaw	502
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Eleventh District

Robert English, Hancock, r	5,378
Raymond J. Desmarais, Jaffrey, d	3,108

Plurality for English	2,270
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Twelfth District

Frederick A. Porter, Amherst, r	8,012
James J. Murray, Milford, d	3,569

Plurality for Porter	4,443
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Thirteenth District

Richard W. Leonard, Nashua, d	5,503
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Fourteenth District

Richard F. Ferdinando, Manchester, r	7,550
Maria L. Carrier, Manchester, d	4,322

Plurality for Ferdinando	3,228
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Fifteenth District

Roger A. Smith, Concord, r	5,207
Betty B. Eberhart, Concord, d	2,761

Plurality for Smith	2,446
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Sixteenth District

George H. Morrissette, Manchester, d	4,249
Richard Fortin, Manchester, r	3,054

Plurality for Morrissette	1,195
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Seventeenth District

William J. McCarthy, Manchester, d	5,087
Roland J. Paquette, Manchester, r	1,983

Plurality for McCarthy	3,104
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Eighteenth District	
Paul E. Provost, Manchester, d	5,682
Robert C. Underwood, Manchester, r	2,289
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Plurality for Provost	3,393
Nineteenth District	
Ward B. Brown, Hampstead, r and d	9,933
Twentieth District	
Ronald J. Marcotte, Rollinsford, d	4,545
Richard L. Smith, Rochester, r	3,734
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Plurality for Marcotte	811
Twenty-First District	
James Koromilas, Dover, r	4,637
Ursula Bowring, Durham, d	2,291
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Plurality for Koromilas	2,346
Twenty-Second District	
Delbert F. Downing, Salem, d and r	10,501
Twenty-Third District	
Arthur Tufts, Exeter, r	6,327
Gerard J. Comtois, Jr., Exeter, d	2,654
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Plurality for Tufts	3,673
Twenty-Fourth District	
Eileen Foley, Portsmouth, d	4,245
Patricia K. White, Portsmouth, r	1,748
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Plurality for Foley	2,497

Sen. LAMONTAGNE: Two years ago, when the report was made by the Secretary of State, I was short of 1,000 votes. Therefore, at this time, I would like to ask the Secretary of State to add up these figures again because the figures that have been given to me show that I had a margin of 1539 votes. I would like to have him check this matter.

Sen. SPANOS: May the record show that I was duly elected to Senate District No. 8 but may the margin of victory (94 votes) be forever expunged from the records!

RESOLUTION

Sen. Marcotte offered the following Resolution:

Resolved, that the Clerk of the Senate be authorized to provide during the session two such newspapers printed within the State to the members and officers of the Senate as such members and officers may select. Referred to Committee on Rules and Resolutions.

COMMITTEE REPORT

Sen. S. Smith for the Committee on Rules and Resolutions recommends the Resolution ought to pass.

Adopted.

Sen. Nixon offered the following Resolution:

Resolved, that the format of the Journal be established by the Journal Committee with the approval of the Senate.

Referred to Committee on Rules and Resolutions.

COMMITTEE REPORT

Sen. S. Smith for the Committee on Rules and Resolutions recommends the Resolution ought to pass.

Sen. KOROMILAS: Will there be any change in the format of the Journal?

Sen. S. SMITH: Not to my knowledge. That would be up to the Journal Committee.

Adopted.

ANNOUNCEMENTS

The PRESIDENT: At the present time, I wish to announce the appointment of Esther T. Hurd as Secretary to the President, Oland Bylow and Herbert Howe as Messengers, Paula Miner as telephone operator, Freda Bjornstad to serve as Majority leader's secretary, and Mrs. Stephen Spanos as the Minority leader's secretary.

The Senate stenographers at present are: Barbara Bradford, Penny LeGay, Ardis Sinotte and Florence Parker.

RESOLUTION

Sen. Roger Smith offered the following Resolution:

That in order to better provide technical and specialized information for committee use, the President is hereby authorized to appoint researchers and such other staff as in his discretion shall be needed and to establish, with the approval of the Finance Committee, for each individual per diem compensation for his work as an employee, provided he is not already an employee of the General Court. Upon request from a Committee Chairman to the President for the assignment of a staff member to research a specific area or problem, the President may in his discretion assign such staff to work for and report to the committee. Referred to Committee on Rules & Resolutions.

COMMITTEE REPORT

Committee on Rules & Resolutions recommends the Resolution ought to pass. Sen. S. Smith for the Committee.

Adopted.

Sen. Lamontagne moved that the House be notified that the Senate is ready to meet in Joint Convention.

Adopted.

INTRODUCTION OF SENATE BILLS & SJR

First, second reading & reference

SB 1, increasing the temporary borrowing limit of the state. (Smith of Dist. 3 — To Finance.)

SB 2, relative to admissibility of facts or opinions contained in scientific publications in court proceedings and notice requirements to opposing party. (Nixon of Dist. 9, Leonard of Dist. 13 — To Judiciary.)

SB 3, restricting the sale, possession, and sniffing of model glue. (Leonard of Dist. 13 — To Public Health, Welfare and State Institutions.)

SB 4, relative to the composition of the judicial council. (Koromilas of Dist. 21 — To Judiciary.)

SB 5, providing payment to persons for loss of existing mortgage financing where such persons are displaced as a result of highway activities. (Lamontagne of Dist. 1 — To Public Works and Transportation.)

SB6, providing that when highway work requires relocating municipally owned underground utility facilities the governmental agency doing the work shall pay for the trenching and backfilling. (Lamontagne of Dist. 1 — To Public Works and Transportation.)

SB 7, permitting persons convicted of certain sex crimes to waive psychiatric observation and examination. (Leonard of Dist. 13 — To Judiciary.)

SB 8, providing that encumbered appropriations of tolls collected on Central New Hampshire Turnpike shall not lapse until the object thereof is accomplished. (Smith of Dist. 3 — To Public Works and Transportation.)

SB 9, providing that encumbered appropriations of tolls collected on Eastern New Hampshire Turnpike shall not lapse until the object thereof is accomplished. (Smith of Dist. 3 — To Public Works and Transportation.)

SB 10, making appropriations for dual enrollment and child benefit service grants for the fiscal years 1972 and 1973. (Morrissette of Dist. 16 — To Education.)

SB 11, to provide recognition of the war service of residents of this state who served in the armed forces of the United States during the Viet Nam conflict. (Lamontagne of Dist. 1 — To Ways and Means and Administrative Affairs.)

SB 12, relative to the reimbursement of tobacco tax payments to wholesalers by retailers. (Bradshaw of Dist. 10 — To Ways and Means and Administrative Affairs.)

SB 13, making the appropriations for dual enrollment and child benefit services for fiscal year 1971 non-lapsing and allowing applications to be made for such grants for the 1970-71 school year at any time prior to June 15, 1971. (Morrissette of Dist. 16 — To Education.)

SB 14, relative to the promotion of four season recreation in northern New Hampshire. (Lamontagne of Dist. 1 — Executive Departments, Municipal and County Governments.)

SB 15, raising the population figure of cities that require sealer of weights and measures and providing an appropriation for the administration of the weights and measures act. (Townsend of Dist. 5 — To Executive Departments, Municipal and County Governments.)

SB 16, relative to the establishment of the position and salary of the associate justices of the Nashua district court. (Leonard of Dist. 13 — To Judiciary.)

SJR 1, appropriating funds to the Club de Raquetteurs Joliette, Inc., the Club Joliette Social, and the Veterans of Foreign Wars of Berlin. (Lamontagne of Dist. 1 — To Finance.)

INTRODUCTION OF SCR First, second reading & reference

SCR 2, relative to the criminal code. Referred to Rules & Resolutions.

ANNOUNCEMENT BY THE CHAIR

The information that our Clerk has received from the House indicates that they will not be ready to meet in Joint Convention until 3 p.m. Consequently, the President will declare a Recess to reconvene at 3 o'clock.

(Recess)

The Senate re-assembled.

HOUSE MESSAGE

The House of Representatives has organized by the choice of Marshall Cobleigh as Speaker; J. Milton Street as Clerk, Paul Brown as assistant Clerk, Theodore Aucella as Sergeant-at-Arms, Herbert R. Richardson, Florence Gould and Lloyd Fogg as doorkeepers.

The House of Representatives is ready to meet with the Honorable Senate in Joint Convention for the purpose of electing a Secretary of State and a State Treasurer and for canvassing the votes for Governor and Councilors.

The President announced a Recess to meet in Joint Convention with the House.

(Recess) (See House Journal)

ANNOUNCEMENT

The select committee of 3 that were appointed to examine the votes of the various Senatorial Districts have done their duty and have reported one correction from the figures that were read to us by the Secretary of State.

January 6, 1971

Honorable John R. Bradshaw
President
New Hampshire State Senate
Concord, New Hampshire

Dear Mr. President:

This is to correct an error in the return of votes for Senate District No. 1, as reported by me this day to the Senate.

The return of votes for Senate District No. 1 should read:

Lamontagne	4,959
Borchers	3,462

giving Senator Lamontagne a plurality of 1,497.

Sincerely yours,
Robert L. Stark
Secretary of State

With that correction, the report of that committee is accepted.

Sen. Townsend moved the Senate go into the late session.
Adopted.

LATE SESSION

Sen. Lamontagne moved adjournment at 6:07 P.M. to meet tomorrow morning at 11 o'clock.

Thursday

7Jan71

The Senate met at 11 o'clock.

ANNOUNCEMENT

The PRESIDENT: Inasmuch as we have not as yet elected a Chaplain, we will meet in Joint Convention with the House this morning for opening exercises.

Joint Convention. (See House Journal)

Senate in regular session.

HOUSE MESSAGE

The House of Representatives will be ready to meet the Senate in Joint Convention at 11:45 o'clock for the purpose of receiving His Excellency, the Governor, and to hear any communication he may be pleased to make, and for the transaction of such other business as may properly come before such Convention.

RESOLUTION

Sen. S. Smith offered the following Resolution:

Resolved, that the Senate will be ready to meet the House of Representatives in Joint Convention at 11:45 o'clock for the purpose of receiving His Excellency, the Governor, and for the transaction of such other business as may properly come before such Convention.

Adopted.

CORRECTION IN CALENDAR

Sen. R. Smith offered the following addition to notice of Joint Hearing of Senate Finance and House Appropriations Committees on SB 1, increasing the temporary borrowing limit of the State:

Hearing will be in Room 100 at 10 A.M. on Tuesday, January 12th.

ANNOUNCEMENT

The President announced that the Senate would stand in Recess until 11:45 A.M.

(Joint Convention). (See House Journal)

Senate in regular session.

Sen. SPANOS: I would like to rise on a point of personal privilege.

Yesterday, in these august Chambers, the Members of this Honorable body selected you as the President of the Senate. To be so chosen is an honor and a distinction for which you can be justly proud.

Yesterday, also, in this Chamber, there occurred an event which has not escaped notoriety and that was the fact that your candidacy for the office of the Presidency received the support of three members of the Minority Party. This happening might very well be unprecedented — and for this also you may be justly proud.

But yesterday in these halls something else transpired — the full import of which has not been fully grasped — and that is that 3 members of the Minority Party abandoned the political clichés of the past, and the traditional Party posture on the election of legislative officers and voted instead for a Member of the opposition Party. By so voting, they in fact participated in the selection of the President of this body.

Whether this gesture by these three Senators was a conscious or unconscious effort is unimportant. And maybe (and I underscore *maybe*), this movement may be the genesis of reform culminating in an election procedure reflecting a truly democratic spirit. And Mr. President, as the leader of the Minority Party, of this innovation *I* can be proud.

HOUSE MESSAGES

The House of Representatives has passed the following Concurrent Resolution; and asks concurrence:

HCR 4, *Resolved*, that a committee of twelve members, ten from the House, one from each County, and two from the Senate, be appointed by the Chair to select some suitable person to act as Chaplain during the present session of the Legis-

lature and report such selection to the House and Senate for consideration.

The Chair referred the Concurrent Resolution to the Committee on Rules and Resolutions.

The House of Representatives refuses to concur with the Senate in the adoption of the following Senate Concurrent Resolution sent down from the Senate:

SCR 1, relative to joint rules

and requests a Committee of Conference; the Speaker has appointed as members of said Committee: Reps. Cobleigh, Roberts and Raiche.

Sen Spanos moved the Senate accede to the request.
Adopted.

Pursuant to the above, the President appointed Sens. Bradshaw and Spanos as conferees on the part of the Senate.

Sen. Spanos moved the Senate go into the late session.
Adopted.

LATE SESSION

STANDING COMMITTEES OF THE 1971

STATE SENATE

Banks, Insurance and Claims

Senator Richard F. Ferdinando, Chairman
 Senator Andrew W. Poulsen, Vice Chairman
 Senator David L. Nixon
 Senator Richard W. Leonard
 Senator George H. Morrissette

Education

Senator Robert English, Chairman
 Senator Arthur Tufts, Vice Chairman
 Senator Alf E. Jacobson
 Senator Delbert F. Downing
 Senator William J. McCarthy

Enrolled Bills

Senator Robert English, Chairman
Senator Richard F. Ferdinando, Vice Chairman
Senator Paul E. Provost

Executive Departments, Municipal and County Governments

Senator Alf E. Jacobson, Chairman
Senator Richard F. Ferdinando, Vice Chairman
Senator Andrew W. Poulsen
Senator Richard W. Leonard
Senator Ronald J. Marotte

Finance

Senator Roger A. Smith, Chairman
Senator Howard C. Townsend, Vice Chairman
Senator Stephen W. Smith
Senator Ward B. Brown
Senator Edith B. Gardner
Senator Paul E. Provost
Senator Eileen Foley
Senator Harry V. Spanos

Interstate Cooperation

Senator John R. Bradshaw, Chairman
Senator Stephen W. Smith, Vice Chairman
Senator David L. Nixon
Senator Eileen Foley
Senator Harry V. Spanos

Journal

Senator John R. Bradshaw, Chairman
Senator Robert English, Vice Chairman
Senator Harry V. Spanos

Judiciary

Senator David L. Nixon, Chairman
Senator Robert English, Vice Chairman
Senator Arthur Tufts
Senator Edward A. Snell

Senator James Koromilas
Senator Laurier Lamontagne
Senator Delbert F. Downing
Senator Richard W. Leonard

Public Health, Welfare and State Institutions

Senator Edward A. Snell, Chairman
Senator James Koromilas, Vice Chairman
Senator Edith B. Gardner
Senator William J. McCarthy
Senator Ronald J. Marcotte

Public Works and Transportation

Senator Andrew W. Poulsen, Chairman
Senator Howard C. Townsend, Vice Chairman
Senator Richard F. Ferdinando
Senator Laurier Lamontagne
Senator Delbert F. Downing

Recreation & Development

Senator James Koromilas, Chairman
Senator Frederick A. Porter, Vice Chairman
Senator Arthur Tufts
Senator Paul E. Provost
Senator George H. Morrissette

Resources and Environmental Control

Senator Frederick A. Porter, Chairman
Senator Edward A. Snell, Vice Chairman
Senator Alf E. Jacobson
Senator Eileen Foley
Senator William J. McCarthy

Rules and Resolutions

Senator John R. Bradshaw, Chairman
Senator Stephen W. Smith, Vice Chairman
Senator Harry V. Spanos

Ways and Means and Administrative Affairs

Senator Arthur Tufts, Chairman

Senator Frederick A. Porter, Vice Chairman

Senator David L. Nixon

Senator Ronald J. Marcotte

Senator Laurier Lamontagne

Sen. Poulsen moved the Senate adjourn at 12:47 to meet next Tuesday at 1 P.M.

Adopted.

Tuesday
12Jan71

The Senate met at 1 o'clock.

A quorum was present.

Pledge of Allegiance was led by Sen. Foley.

LEAVE OF ABSENCE

Sen. Gardner was granted leave of absence for Tuesday and Wednesday, January 12th and 13th, to attend a Conference in Washington, D. C. sponsored by the National Highway Safety Bureau (Volpe).

INTRODUCTION OF SENATE BILLS

First, second reading & reference

SB 17, to reduce the percentage of alcohol in the blood constituting prima facie evidence of intoxication. (Tufts of Dist. 23 — To Judiciary)

SB 18, relative to filing dates for nominations in certain cities and towns. (Downing of Dist. 22 — To Executive Departments, Municipal and County Governments)

CORRECTION IN THE JOURNAL

Sen. JACOBSON: I rise to ask that the Senate Journal for January 6 on page 11 be corrected where it states that I spoke against the resolution. The fact is that I did not speak against the resolution but only offered a modest amendment which the Senate in its careful judgment turned down. I am somewhat uneasy since the Concord-Monitor with its usual proclivity for peculiar linguistic usages has denominated the Senators as astute, flamboyant, introspective or disgruntled. Since the first three do not fit me, the only category open to me is disgruntled. Though I must admit that at times I am crotchety, I am reluctant to accept a cranky posture especially when I did not oppose the resolution.

ANNOUNCEMENT

The President announced the assignment of rooms for the various Committees:

Room 110

Executive Departments, Municipal and County Governments and Ways and Means and Administrative Affairs

Room 111

Public Works and Transportation and Banks, Insurance and Claims

Room 112

Judiciary and Public Health, Welfare and State Institutions

Room 109

Recreation and Development and Resources and Environmental Control

Room 120

Senate Finance Committee

Room 105A

Education

ANNOUNCEMENT

Sen. Spanos announced a meeting of the Minority Party leaders at 11:30 A.M. tomorrow in his office.

ANNOUNCEMENT BY THE CHAIR

The President would like to call attention to a printing error in the Journal. The rules call for Judiciary Committee to be an eight member committee. The Chair appointed eight people to that Committee and that was the information that was sent to the printer. However, the name of Sen. Leonard was omitted by the printer. That correction will show up in today's Journal.

The Chair recognized Sen. JACOBSON: I have a question regarding the adoption of the resolution that is on page 9 of the Journal of January 6 with respect to changing the majority vote for the next four legislative days. Sen. S. Smith said it was through next Wednesday. I am wondering if it should not be next Thursday.

Sen. S. SMITH: It was my understanding at the time that we were including Wednesday, Thursday, today and Wednesday.

Sen. JACOBSON: It makes no difference to me except the word "next" would presume not to include the day on which it was adopted.

The Chair declared a brief Recess.

(Recess)

Sen. S. SMITH: Sen. Jacobson I believe is correct and that the discussion of adoption of the rules will be on Thursday rather than tomorrow. Also, I would like to announce that there will be a meeting of the Rules Committee at 2 o'clock in the President's office tomorrow (Wednesday).

PERSONAL PRIVILEGE

Sen. LAMONTAGNE: Yesterday, I was the most surprised fellow when I learned the business of insurance for boys who are in the service. I never dreamed that this was going on in New Hampshire. I am speaking about an example of my own son. I am not only speaking for my own son but for all sons and daughters who are in the service. When a young man comes back from the service, as my son did, he buys himself a car, registers the car, then he must try and find an insurance company to insure his car. I never dreamed that this was going on

in New Hampshire. I might add that it was bad enough that the insurance company was using the motor vehicle dept. All violations and accidents had to be on this registration. Insurance companies have been using the motor vehicle in these reports with accidents and I can prove it. In fact, if your car is parked and some drunk runs into it — I thought that was bad. I personally feel that these insurance companies (and I am preparing a resolution) and I am hoping that the insurance commissioner will investigate all these charges that I have made before you. I would also like to see the State of New Hampshire, if necessary, go into the business of insurance. I wanted to let you know what I faced yesterday and it shocked me to learn that the service man has such a time in getting insurance. My son went to several insurance companies. I went over and talked with Fred Clark to find out that this was going on in the State. The insurance companies did not want to take any service man. I think something should be done and done now.

Sen. Spanos moved the Senate go into the late session.
Adopted.

LATE SESSION ANNOUNCEMENT BY THE CHAIR

The Chair would request that all Committee Chairmen call an organization meeting of their Committees and would like to have this done within the next day or two, if at all possible. Any officers that are elected should be reported to the Clerk of the Senate.

Sen. Snell moved the Senate adjourn at 1:22 o'clock.
Adopted.

Wednesday

13Jan71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Rev. William L. Shafer:

Almighty God — amid the sights and sounds of men and machines, busy in the work of renewal projects — we bring our attention to the legislative duties before us, with the thought that our endeavors here can influence and cause change in our restless world. Enable us to bring about those changes, through our decisions in this chamber, to build a better world — a world in which life's real values are brought to bear upon the challenging issues of this day. Grant to the members of this honorable Senate Thy blessing in their endeavors for our "Granite State". Amen.

Pledge of Allegiance was led by Sen. Tufts.

INTRODUCTION OF SENATE BILL

First, second reading & referral

SB 19, relative to convictions of persons under intoxicants or influence of drugs. (Snell of Dist. 4 — To Judiciary.)

COMMITTEE REPORT

HOUSE CONCURRENT RESOLUTION NO. 4

The House of Representatives has passed the following concurrent resolution, in the passage of which it asks the concurrence of the Honorable Senate:

HCR 4, *Resolved*, that a committee of twelve members, ten from the House, one from each county, and two from the Senate, be appointed by the Chair, to select some suitable person to act as Chaplain during the present session of the legislature and report such election to the House and Senate for consideration. Ought to pass. Sen. S. Smith for the Committee.

COMMITTEE ON RULES

Sen. S. Smith moved adoption.

Adopted.

The Chair appointed Sen. English and Sen. Foley.

COMMITTEE REPORT

SB 1

increasing the temporary borrowing limit of the state. Ought to pass. Sen. R. Smith for the Committee.

Sen. SMITH: SB 1 increases the temporary borrowing limit of the state from 15 million to 25 million dollars.

This is necessary in order for the state treasurer to obtain short term loans to meet the State's budgeted commitments.

At the present time the limit is 15 million dollars.

We propose at this time to increase the limit from 15 to 25 as all of the 15 million authorization is now used up. This, we feel, is not out of line since our sister states of Vermont and Maine have limits of 35 and 30 million respectively. In fact, later information may show this to be a conservative figure.

The bill is in no way to be construed as a solution to the state's fiscal problems. Rather, it is an expediency which permits us to meet our financial commitments while we seek a more permanent legislative solution to set our financial house in order.

Sen. LEONARD: At the hearing Senator, was there enough evidence presented for you to decide whether or not this would be sufficient to get us out of the hole we are in right now?

Sen. R. SMITH: It was our belief based on the testimony of Treasurer Flanders that this might. He felt it might get him out of it.

Sen. KOROMILAS: Could you tell us the present rate that it costs to borrow money on the short term basis.

Sen. R. SMITH: Testimony was given for borrowing on short term basis and I believe it was 30,000 dollars per million.

Sen. KOROMILAS: The assistant to the Governor requested that 40% of the operating budget be used as a figure I think. Isn't that what he testified.

Sen. R. SMITH: That is correct.

Sen. KOROMILAS: You say we may need some more later, you don't feel we should authorize 40%.

Sen. R. SMITH: The amendment was presented to us quite late in the game. We did not feel the bill was written as an emergency operation to grant some more. This we felt was worth consideration but to grant the emergency authorization and change the system at the same time, we didn't feel we wished to do at this point.

Sen. JACOBSON: What is the total amount of our debt service now?

Sen. R. SMITH: I don't have this figure now. I don't have the figure with me. I don't think the short term bonding is included in that figure. I think they are two separate things. This doesn't effect the bond of indebtedness to the State.

Sen. JACOBSON: What is the amount of temporary borrowing that we are at at this moment.

Sen. R. SMITH: That we have at this moment?

Sen. JACOBSON: Yes.

Sen. R. SMITH: It should be 15 million dollars.

Sen. JACOBSON: I heard on the radio this morning something that interested me which said that yourself the Chairman of the Appropriations committee, the Speaker of the House and the President of the Senate had a conference of concordance. Is this a new procedure that is being established.

Sen. R. SMITH: I don't know if this is a new procedure or an old one but it is an accepted procedure to try to iron out or establish basic facts in order to take some action. We haven't even established basic facts in order to take some action. We haven't even established our basic facts until yesterday. We received the amendment too late in the game. We also wanted to be sure of the testimony we heard from the Treasurer. A lot of this evolved around the State Treasurer.

Sen. KOROMILAS: What is the current position of the State in terms of cash flow?

Sen. R. SMITH: We do not know and he was unable to tell us. We have directed the Legislature to try to make some determination in the next month or so.

Sen. SPANOS: Mr. President, I rise in support of the pending motion.

The proposal before us this morning would increase the borrowing capacity of the state from 15 million dollars to 25 million dollars. According to those in authority, the State Treasury is at such a low point that we do not have sufficient funds to meet our obligations precipitated in the main by the failure of the Business Profits Tax to realize the projected revenues.

Tempted as I am to heap criticism on those responsible for this fiscal crisis (particularly after learning yesterday that we may be faced with double the deficit the Governor indicated in his Inaugural) the wisdom of this body would not be enhanced by such a harangue — except to say that *this is a sad state of the state*.

Mr. President, what is *done is done*. It is a fact of life and it is now incumbent upon us to responsibly resolve the emergency which grips us. To do otherwise would be to act irresponsibly and not in the best interests of the state.

Like the Chairman of the Finance Committee indicated yesterday at our executive session, I do not relish the idea of having to decide an issue of such importance in such a short period of time. The debt condition of a state (whether it is healthy or not) is of major concern to all of us because it affects every taxpayer in the state and, because it is so vital a matter, deliberations should be orderly and decisions made only after thorough study.

I might point out to you that, according to a rather *astute* economist, Prof. John Menge of Dartmouth, New Hampshire's per capita state debt is one of the highest in the nation which gives greater evidence to more careful scrutiny.

However, as I understand it from the State Treasurer, time is of essence if we are to avoid a fiscal calamity and the erosion of the fuel, faith and credit of this commonwealth. I shall take his word for it and will support this measure.

I have my own opinion on further increases of our borrowing capacity and frankly predict that before this session is over that we may have to increase the debt limit once again. However, until we have more data available to us as it relates to the financial condition of the state, I feel that the adoption of Senate Bill 1 is the proper course at this time.

I urge my colleagues to join with the Finance Committee which was unanimous in support of this Legislation.

Sen. KOROMILAS: I rise in support of the pending motion. As I have stated before the Legislature gave every city and town a guarantee that they would get their money in lieu of the stock-in-trade and machinery taxes. The real property tax payer is the one who has to be protected. I may add now that every creditor of this State should be protected and for those reasons I support the pending motion.

Sen. S. SMITH: I too urge the members of the Senate to vote in favor of SB 1.

Sen. MORRISETTE: I am wondering if there is any way the Senate could look into some of the money that was voted on but to be spent in the coming year. I assume that is why our deficit will be probably 20 million instead of 10 million. Is there any way we could look into that money to reconsider some of that future spending?

Sen. S. SMITH: Out of the biennium two years we have approximately six months left in this biennium. I think possibly the Senate Finance Committee could look into this but I think it would be a very difficult thing to do with plans made with most of the departments and commitments made as to the expenditure of these funds between now and June 30.

Sen. JACOBSON: I rise reluctantly to support the pending motion. I say "reluctantly" because I am most squeamish about increasing the financial burden of the people of New Hampshire without increasing their benefits. I listened to a news release by the Speaker this morning which characterized the pending bill as an act of positive leadership, but my readings from constituents indicate rather clearly that they have some sharp negative feelings about the whole situation. Yet, I recognize that the obligations of the legislature to the cities and towns must be met even if we must "melt down the gold from the State House dome."

The questions raised by SB 1, of course, go much deeper than the limited thrust of increased temporary borrowing. Our state has for the past two years gone from crisis to crisis, and we are in no better position at this moment in history. The legacy tax imposed by the 1969 session of the legislature did not produce. The business profits tax apparently will not produce. The fiscal situation softens as the crisis intensifies. My view is that we are at a point where patchwork legislation will no longer stem the tide; radical and full reaching solutions must be found which go far beyond mere problem solving to creative and imaginative legislation directed toward a restoration of public confidence in government. Solutions to ameliorate problems which only plunge us further into the fiscal wilderness are in the last analysis worse than the original problem.

Nonetheless, the crisis does give us the opportunity to re-evaluate critically the entire structure of governmental processes. Take the arena of education as one example. Within our university system, we have two teachers colleges and graduate school programs which regularly produce a steady stream of teachers on all educational levels. Our state has followed traditional patterns which require a huge investment, which now has produced an incredible oversupply in most areas of teaching, and most especially in college teaching.

Our National Labor Department recently issued a report which warned that those who pursue education for teacher careers "could wind up in unemployment lines." The report "stressed that applications could increase even as jobs dwindle unless young people recognize the slackening demand." Again, the Carnegie Commission for Higher Education report has called for "a restructuring of the degree system, largely untouched for 80 years, to require fewer years in the classroom." Again, at annual meeting of the American Historical Association, held in Boston, 1700 PhDs competed for 250 available jobs.

By rational economic standards, a condition which produces an oversupply can only be corrected by a sharp reduction in the overinvestment factor. I was gratified to see that the Governor's Inaugural Address perceived the problem when he pointed out that 80% of the future public market will not necessarily require the traditional college degree programs. Unless we take full cognizance of this situation, we will waste our pub-

lic resources on unnecessary projects and fail to provide funds for high priority, demand needs. The question is are we willing to take a genuine hard look at these conditions with a sharp eye toward alternatives? If not, the jungle will grow thicker; but if we are, we may find our way into the clearing. There are other areas which cry out for full legislative revision. I cite, for example, the Member Task Force recommendation that we restructure our supervisory union system. This system was valid at an earlier time, but there are serious questions with respect to this multi-million dollar institution value in light of today's significant advance in computer and communication technology.

The crisis in welfare grows day by day. We are in need of strong guidelines with respect to problems in the formula of income disregards and more clear definitions with regard to the ability and willingness to work. One of the fears I have with the proposed payroll tax is that it may create additional unemployment on those levels where the income is the lowest, thereby creating additional welfare problems. This cannot be allowed to happen.

Again, Judicial reform cries out for action. While the legal profession focuses on the celebrated cases of Miranda, Mapp or Escobedo, thousands of small people suffer continuing injustices. Former Attorney-General Ramsey Clark recently said that only 10% of American people receive civil justice. If the percentage for New Hampshire approaches the cited national figure, then we are a long way from the constitutional demand of Article 14 that every citizen has prerogative "to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws."

In my view, the present dilemma has in part at least been precipitated by two factors. The first is the myth that a solution can come by merely quantifying the dollars spent. Anyone who honestly approaches the problem of public services must recognize that this has not worked. Incidentally, I spoke of education earlier, the Carnegie report indicates that we could have the same level of quality education if we undertake radical restructuring at a cost of 25% less. Sociologists call this "quantophrenia" because of its pervasive nature in our social system. What we desperately need is wholesale re-appraisal, restructuring and re-shaping to attune our public resources to the real

public priorities. If we do not, the crisis we address ourselves to today will only be a prelude to an interminable and frantic effort to meet crisis after crisis.

The second block to radical change is what I call political gamesmanship, where the usual thrust is to utilize the political structure as a game with the result that the political process becomes an end in itself rather than a means whereby to establish public priorities and then to build additional structures. Frankly, I feel the public is becoming increasingly aggravated by the games that politicians play. I am hopeful that our public conscience has sufficient elasticity to embrace new ideas even at the expense of private or institutionalized interests.

PRESIDENT: Question on adoption of committee report. Report adopted. Ordered to a third reading.

Sen. Spanos moved the Senate go into Late Session.
Adopted.

LATE SESSION

Third reading and final passage of bill

SB 1, increasing the temporary borrowing limit of the state.

Sen. Koromilas requested a roll call.

Seconded by Sen. Marcotte.

The following Senators voted in the affirmative: Lamontagne, Poulsen, S. Smith, Snell, Townsend, Jacobson, Spanos, Nixon, English, Porter, Leonard, Ferdinando, R. Smith, Morrisette, McCarthy, Provost, Brown, Marcotte, Koromilas, Downing, Tufts and Foley.

Twenty-two Senators having voted in the affirmative and no Senators voting in the negative, the Bill passed.

Sen. S. Smith moved reconsideration.

Motion lost.

Sen. Townsend moved the Senate adjourn at 1:45 o'clock.
Adopted.

*Thursday**14Jan71*

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer:

Loving Father — we have met on this stormy day to transact our Senate duties. However, before we begin, we would lift up before you the families of Sen. Marcotte and Sen. Provost during these days of sorrow and grief. Grant them both comfort and strength to carry them through these most trying times.

And now, most gracious Father, guide us in our deliberations today. As we complete our calendar and prepare to return to our homes — may Thy blessing attend us, keeping us safe in our homeward journey and may we return refreshed for the labors of the new legislative week. Grant us these blessings in the Name of Jesus Christ. Amen.

Pledge of Allegiance was led by Sen. Downing.

INTRODUCTION OF SENATE BILLS & RESOLUTIONS

SB 20, providing for the regulation of community antenna television systems. (Lamontagne of Dist. 1 — To Judiciary.)

SB 21, providing that school districts may include in borrowing the cost of planning for construction. (Downing of Dist. 22 — To Education.)

SB 22, abolishing the office of senate legal counsel. (Jacobson of Dist. 7 — To Committee on Ways and Means and Administrative Affairs.)

SB 23, relative to probable cause hearings. (Leonard of Dist. 13 — To Judiciary.)

SJR 2, making an additional appropriation for meat inspection for fiscal year 1971. (Townsend of Dist. 5 — To Finance.)

HOUSE MESSAGE

The House of Representatives has passed the following bill, in the passage of which it asks the concurrence of the Honorable Senate:

HB 53, an act changing the effective date of a charter approved by the voters of the City of Laconia.

SUSPENSION OF RULES
COMMITTEE REPORT**HB 53**

changing the effective date of a charter approved by the voters of the City of Laconia.

Sen. JACOBSON: Mr. President, I move the rules of the Senate be suspended so far as to permit the introduction of this bill at this time so that the rules for publication, the rules for hearing, and the rules for publication after hearing be suspended.

Adopted.

Sen. GARDNER: This bill concerns the City of Laconia solely. It advances the effective date of a charter change from November 1971 to March of this year.

It will avoid 2 elections.

It is necessary that HB No. 53 be passed on 3rd reading today as it must be signed by the Governor in order that notices may be published by next Monday, January 18th.

I would like to ask the Senate vote favorably on this request.

Adopted. Ordered to third reading.

PERSONAL PRIVILEGE

Sen. KOROMILAS: Mr. President and Members of the Senate. I have been reading like all of you the newspapers in the last two days. I must say that what I have been reading in my home newspaper and probably all the other newspapers in the state about what is happening in Concord today and it is incredible; it's unbelievable. I can't escape the fact that some kind of a scenario is being prepared to be put before us. I read that

the President of the Senate says he doesn't like what is happening. I read that the Speaker of the House says we have been had. What is the import of these particular remarks? Can we say that they don't know what is going on? Can we say that they know nothing about what is happening? Take the Business Profits Tax for a moment. We had a Task Force — a Citizens Task Force — that we paid \$190,000 so they could come in and give us their report on the particular situation. They anticipated the recommendations. They took a lot of evidence and we, the State of New Hampshire, paid them 190,000 dollars. Everyone had the benefit of that 190,000 dollar report. We all read it. If we didn't, it wasn't the Task Force fault. But let me say this, there has been a proposal by the Honorable President of this Senate to engage in massive research. In other words, what is being proposed is that we have all kinds of research possible to anticipate the situation. How much can the taxpayer take?

We are in a deficit situation, yet we would like the Legislature, at least this side, to bring in all kinds of research people to tell us what the situation is. I know what the situation is, and I am sure you know what the situation is. We don't have to be told that this State, at the present time, is in a critical state. I can't believe anyone in here doesn't know that we are in a real problem. The fact that we engage massive research people to come in here and anticipate the situation is unbelievable. Now what does the Speaker mean when he says he has been had? Am I to believe that he found out about this 10 million dollar deficit that he hadn't spoke to the Governor's staff? Was it the first time he really heard it when Mr. Lamprey went before the Finance Committee? Doesn't the Governor and his leadership talk to each other or do they wait until they go into a formal committee. I can't believe this. I am sure the voters back home are watching this very carefully. This kind of thing may fool some people, but certainly the man on the street is reading this and is completely confused. He can't believe that the leadership has now realized that 10 million dollars is an added deficit over the 7 million dollars that the Profits Tax did not get in. I also want to make a point here that by reading the newspapers as I read them and knowing what the situation is that there is a tendency on the part of some people to disassociate themselves from the vote they took on the business profits tax. They were here, they voted for it. Now they would like you to believe they had nothing to do with it.

They were sold the bill of goods by the Task Force. I say this to you, the people are not going to laugh at some people but certainly at some others.

Sen. ENGLISH: Some of you notice that the list of hearings in the Reports are in a little brown folder at this session, and the reason for this is that these are disposable. In short, they will be delivered on your desk each day and the one that comes along the following day will be for that day and the subsequent days. This is in an effort to decrease the amount of material that used to be and now is in the Senate Journal. It contains both the hearings of the House and the Senate as well.

Sen. TOWNSEND: Is the intent that a copy of these will be mailed with today's Journal so we have it over the weekend.

Sen. ENGLISH: It is my understanding, but I will check on that. Some of you may find it is not bound up in your books and it would appear to be no need to do that. The copy for the day will be on your desk or in the case of Tuesday, will be mailed to you.

PRESIDENT: Sen. Stephen Smith and Spanos offer the following resolution. A copy of this resolution is in the hands of every member of the Senate at this point. Unless there are objections we will not read the resolution in its entirety.

The Chair declares a one minute Recess.

Senator Stephen W. Smith and Senator Harry V. Spanos offered the following resolutions; that the rules of the Senate be amended to read as follows:

Rule 24 — Every bill and joint resolution appropriating state money, which has been referred to another committee and favorably accepted by the Senate, shall be committed to the committee on Finance for review. If any such bills have been referred jointly to the committee on Finance and another standing committee, the committee on Finance may report separately and a further public hearing may be held at the discretion of the Committee on Finance.

Rule 27 — The Standing Committees of the Senate shall be as follows:

Banks, Insurance and Claims — five members

Education — five members

Enrolled Bills — 3 members

Executive, Municipal and County Government — seven members

Finance — eight members

Interstate Cooperation — five members, one member of which shall be the President.

Journal — three members

Judiciary — eight members

Public Health, Welfare and State Institutions — five members

Public Works and Transportation — five members

Recreation and Development — five members

Resources and Environmental Control — five members

Rules and Resolutions — three members, one member of which shall be the President

Ways and Means and Administrative Affairs — seven members

Rule 40 — Any appeal from the ruling of the presiding officer shall be decided by majority vote of the members present and voting.

Sen. JACOBSON: I rise to concur with the report of the Rules Committee: They were most gracious to hear me out, and though I have fathered these three, at least in part, I am grateful for the Rules Committee's favorable action on this. Incidentally I would like to congratulate you, Mr. President, on the structure of our Senate Finance Committee. I think you did a very fine job in taking into account the whole range of attitude and interest with respect to the important Finance Committee.

Sen. KOROMILAS: I take it we are talking about Rules 24, 27, and 40. My question is that I know about the Recreation and Development Committee. That is a Committee that has been established by the Senate. I think that it is only fair that I be advised what the Recreation and Development Committee does. I know in the RSA's, and this information has been provided to me by the ladies from the school Sen. Jacobson has brought with us. I know that most of the resources and recreation functions are in the Commissioner of DRED. Now, what I would like to find out is I assume that Recreation will include Fish and Game, but I note that this particular committee has taken the Resources aspect out from it and put it into another Committee which is now called Resources and Environmental Control. What I would like to know at this time is what exactly

are the limits of the Committee so I in the Committee can know.

Sen. S. SMITH: My answer again would be I think that the Committee on Recreation and Development would deal with such legislation as you mentioned in regards to Fish and Game, also dealing with areas of state parks. How much further, this could be difficult for me to say, except particularly due to the fact we are all familiar with the many bills which come into the Senate or the House of varying topics within them and this would have to be up to the discretion of the President in assigning a bill to the Committee. Whether he felt the bill was more Resources or Recreation or Finance depending on the discretion of the President of the Senate.

Sen. MORRISSETTE: Originally I had requested to be on whichever committee handles problems regarding pollution, my having been in the field of sanitary engineering, and I am wondering if that type of legislation would come before this committee on Recreation and Development.

Sen. S. SMITH: Again I would state that I think portions of this may come before that committee depending on how the ruling of the President is on the assignment of bills. I would think a major portion of a bill of this type on pollution, I am not really sure, could go in various areas. It could go to Public Health, depending on the general wording of the bill. It could go to Resources and it could go possibly to Recreation.

Adopted.

Sen. Jacobson offered an amendment to Rule 8.

Discussion.

Motion Lost.

HOUSE MESSAGES

The House of Representatives has passed the following Bill, in the passage of which it asks the concurrence of the Honorable Senate:

HB 70, abolishing the Police Commission in the town of Wolfeboro.

The House of Representatives has passed the following concurrent resolution, in the passage of which it asks the concurrence of the Honorable Senate:

HCR 1, Resolution requesting Congress to call a Convention for the purpose of amending the U. S. Constitution to provide for Intergovernmental sharing of Federal Income Tax Revenue.

The House of Representatives has voted to concur with the Honorable Senate in the passage of the following entitled bill, sent down from the Honorable Senate:

SB 1, increasing the temporary borrowing limit of the state.

INTRODUCTION OF HOUSE BILL

HB 70, abolishing the Police Commission in the town of Wolfeboro.

Referred to Executive Departments.

INTRODUCTION OF HOUSE CONCURRENT RESOLUTION

HCR 1, Resolution requesting Congress to call a Convention for the purpose of amending the U. S. Constitution to provide for Intergovernmental sharing of Federal Income Tax Revenue.

ANNOUNCEMENT BY THE CHAIR

The President announced the following appointments and changes in the Standing Committees of the 1971 Senate:

1. The appointment of Senators Stephen W. Smith and Robert English to the Committee on Executive Departments, Municipal County Governments.

2. Delete from Committee on Ways and Means and Administrative Affairs, Senator David L. Nixon. Add Senators Edward A. Snell, Ward B. Brown and George H. Morrissette.

3. Delete from Committee on Resources and Environmental Control, Senator Alf E. Jacobson. Add Senator David L. Nixon.

4. Delete from Committee on Judiciary, Senator Edward A. Snell. Add Senator Alf E. Jacobson.

Sen. Spanos moved that the Senate go into Late Session.
Adopted.

LATE SESSION

Third reading & final passage of bill

HB 53, changing the effective date of a charter approved by the voters of the City of Laconia.

Sen. Townsend moved the Senate adjourn at 1:50 o'clock. Adopted.

Tuesday
19Jan71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

Sovereign Lord, Ruler of the universe, look down from heaven upon all your people, and save all of us, your unworthy servants, and give us your peace, your love, and your assistance. Send down upon us the free gift of your guiding spirit so that with a clean heart and a good conscience we may respect one another, working together — not deceitfully nor selfishly, nor to control each other's freedom — but blamelessly and purely in the bonds of peace and of love. For there is only one Body, and one Spirit and one Faith as we have been called in one hope of our calling so that we might all come to You and Your infinite love in Jesus Christ our Lord, with whom we are blessed with your all-holy, good, and life-giving Spirit, now and through endless ages. Amen. (*)

*adapted from "The Prayer of Christian Unity" (Book of Catholic Worship)

Pledge of Allegiance was led by Sen. Koromilas.

INTRODUCTION OF SENATE BILLS

First, second reading & reference

SB 24, relative to state bridge and town bridge aid. (Smith of Dist. 3 — To Committee on Public Works and Transportation.)

SB 25, modifying the requirements for membership on a municipal budget committee. (Spanos of Dist. 8 — To Committee on Executive Departments, Municipal and County Governments.)

SB 26, repealing the statute requiring registration of land surveyors. (Bradshaw of Dist. 10 — To Committee on Public Works and Transportation.)

SB 27, to provide procedures for the prevention and clean-up of oil spillage in public waters. (Porter of Dist. 12 — To Committee on Resources and Environmental Control.)

SB 28, requiring inspection and certification of gasoline, oil, and petroleum storage facilities by certain fire officials, and reporting same to water supply and pollution control commission. (Porter of Dist. 12 — To Committee on Resources and Environmental Control.)

CA CR 5, relating to: Granting the legislature greater flexibility in raising public revenue through the power to tax, and Providing That: Property other than land may be classified by kind, use or amount and such classes taxed differently. (Sen. Spanos of Dist. 8 — To Ways and Means and Administrative Affairs.)

Sen. SPANOS: I move that the order whereby you ordered CA-CR 5 to Ways and Means and Administrative Affairs be vacated and that it be referred to the Judiciary Committee. With all due respect to the Chair, this resolution is a constitutional question (and although it involves future revenue concerns) it is more a legal matter which normally concerns the Judiciary Committee.

In the past, said resolution has always been referred to Judiciary. I hope that this resolution will go there again.

Sen. ENGLISH: This basically is a graduate income tax proposal?

Sen. SPANOS: This concept of a graduated income tax is only one part of the parcel which is allowed the legislature through flexible taxing power. It can be graduated tax, inheritance sales tax, it could mean treatment of property differently than other properties. It's a whole panorama of approaches we can utilize.

Sen. S. SMITH: I rise in support of Senator Spanos's motion. I think viewing this and looking at it, it is rather a complex proposal and I think probably has as much if not more merit being on committee on Judiciary.

Adopted.

ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bill:

HB 53, changing the effective date of a charter approved by the voters of the city of Laconia.

SB 1, increasing the temporary borrowing limit of the state.

Report is accepted.

Sen. Provost
For the Committee

HOUSE MESSAGES

HCR 9, pertaining to attache employment during the interim. Referred to Finance.

HCR 11, extending the time for the report of the Manchester ward commission.

Whereas, by laws of 1969 chapter 542 an interim commission was established to study and make recommendations relative to the ward lines in the city of Manchester and were to report its findings and recommendations to this session of the general court during the first week thereof, and,

Whereas, because of the unavailability of census figures and statistics it is impossible for said commission to comply with the requirement of such a date for reporting,

Now Therefore be it Resolved by the House, the Senate concurring;

That the date by which such findings and recommendations may be made by the commission and will be accepted by this general court is hereby extended to April 1, 1971.

Sen. FERDINANDO: The reason for this is merely I think is to give the Committee more time to get the facts, population figures together and April 1st seems to be the most appropriate time for us to come up with some better results.

Referred to Judiciary.

INTRODUCTION OF SENATE CONCURRENT RESOLUTIONS

SCR 3, memorializing the President of the United States.

Whereas, The economy of the State of New Hampshire is substantially affected by the economic health of its shoe industries; and

Whereas, The percentage of foreign made shoes imported into the United States continues to increase rapidly; and

Whereas, The shoe industries in the state of New Hampshire have been adversely affected from the flood of foreign imports; and

Whereas, Unemployment has increased alarmingly in the state of New Hampshire in shoe industries because of the lack of quotas or tariffs on foreign imports;

Now Therefore be it Resolved by the Senate, the House concurring;

That we, the members of the New Hampshire Senate, and House of Representatives, do memorialize the President of the United States to establish such quotas and approve such tariffs as may be necessary to insure the preservation and economic health of our domestic shoe industries:

That signed copies of this resolution be certified by the Secretary of State and sent to the President of the United States,

the President of the United States Senate and Speaker of the United States House of Representatives.

Sen. SPANOS: Mr. President: First of all, let me say that the introduction of this resolution has the approval of the Rules Committee and I now ask the approval of this body.

I strongly support the adoption of the resolution before you. It asks that the President of the United States take action to impose some limitation on the import of shoes into this country.

I am not unaware of the complexities of trade policies but this industry which is so vital to our economy is facing bankruptcy as the result of foreign competition.

Already, many shoe plants have closed their doors and this has caused significant unemployment and undue hardship on the citizens of this State. Unless some action is taken soon to limit shoe imports, the future for this industry and for those hundreds of families who rely on it for their livelihood, appears bleak.

This resolution will put us on record with the President that the New Hampshire Legislature is deeply concerned about the plight of our people and are asking for his generous support and assistance. It is largely in his hands.

I respectfully solicit your support.

Sen. NIXON: I am in sympathy with the objections of the resolution. Can you give us any idea if it will be effective in accomplishing its purpose?

Sen. SPANOS: It's always very difficult to determine what effect it will have with the Chief Executive. I don't know what President Nixon will do with this resolution. He will probably never see it. The point is we are going on record in support of this industry and the people who work in the industry and we could be hopeful that the President would take some action to limit the importing of shoes.

Adopted.

INTRODUCTION OF SENATE CONCURRENT
RESOLUTION NO. 4

SCR 4, memorializing the Congress of the United States, requesting the members of the New Hampshire congressional delegation to seek legislation which will return a portion of the federal income tax to the states.

SUSPENSION OF RULES

Sen. JACOBSON: Mr. President, I move that the rules of the Senate be suspended so as to permit the introduction of HB 70 at this time, so the rules for publication, for hearing, and rules for publication after hearing be suspended.

Adopted.

Sen. SNELL: Mr. President: HB 70 affects the community of Wolfeboro which is in my district. I will read a brief statement.

Wolfeboro is changing to the Town Manager form of Government effective with this March Town Meeting.

At that time all Town Departments will come under the jurisdiction of the Town Manager *except* the Police Department which Commission was established by a special act of this Legislature.

Recognizing that the Police Department should also be the Manager's responsibility, the Selectmen have asked for this authority to put the question on the ballot for the Town's people to decide. That is all HB 70 does.

The reason for this requested action is twofold:

1. It saves us time by eliminating the hearing, and
2. The Town needs early approval so the question can be put on the ballot before their closing date.

Sen. LAMONTAGNE: Was there anyone in opposition to this bill in the House?

Sen. SNELL: No.

Sen. JACOBSON: I move that HB 70 be ordered to a third reading.

Adopted.

PERSONAL PRIVILEGE

Sen. MORRISSETTE: We have today introduced a bill which provides for the consolidation of all State Resource Agencies and the Office of Planning under a single umbrella. This, I believe, is of urgent priority in view of the tremendous environmental problems facing the State.

We appear to have contradictory goals in this State, namely an expansion of our industry and tourist industry while we also seek to preserve and improve New Hampshire environmental quality. In short, I believe we can achieve orderly economic and industrial growth with attendant benefits to our States economy without adversely affecting our environment. We should strive to achieve a delicate and reasonable balance between what appear to be at first sight, contradictory objectives. By consolidating all of the States Resource and Planning Function under a single Bureau we can eliminate unnecessary duplication, achieve efficiency and assure maximum utilization of funds available to the several agencies now responsible for administrating the several aspects of the States Natural Resources. It is no secret that these agencies are frequently in conflict as to the authority and responsibility vis a vis each other. Moreover, it is common practice for personnel of these agencies to meet frequently to discuss and resolve problems and disputes which could easily be resolved by a centralized directing authority.

New Hampshire must face up to the fact that the time for politics, pressure groups and empire building can no longer be tolerated at the expense of the taxpayer.

The legislation I have proposed will directly benefit the taxpayers of this State and ensure positive and effective controls for the future environment of this State.

COMMUNICATION

The family of Senator Marcotte wishes to express their deepest appreciation to all colleagues in the Legislature for their kind words and acts of sympathy in connection with their great loss suffered recently. It has meant a lot to us to know that our friends were standing by at such a time.

Once again, with deepest gratitude, we thank you.

Mr. and Mrs. Edward Marcotte and Family

Sen. Spanos moved the Senate go into Late Session.

Adopted.

LATE SESSION
THIRD READING

HB 70, an act abolishing the police commission in the town of Wolfeboro.

Adopted.

Sen. Gardner moved the Senate adjourn at 1:35 o'clock.

Adopted.

Wednesday
20Jan71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

O GOD, Our Father, who in Jesus Christ didst cause Thy Light to shine in darkness, grant that we may open our hearts to this Light, and receive it, and walk in the radiance of Thy Grace and Thy Love.

O GOD, Our Father in Heaven, having received Thy Light, and desiring to share that Light with others, grant that we may be worthy of our calling, entrusted to the high privileges of our elected offices.

And now, O GOD, bless your servants as they undertake the responsibilities of their offices, give them wisdom and courage to do the work that needs to be done. Amen.

Pledge of Allegiance was led by Sen. Marcotte.

INTRODUCTION OF SENATE BILL

First & second reading & referral

CACR 6, Relating to: Voting age and qualification as to age in holding office, and Providing that: Eighteen year olds may vote but no person under twenty-one years of age may hold any elective office. (Sen. Spanos of Dist. 8, Sen. Smith of Dist. 3 — To Judiciary.)

ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bill:

HB 70, abolishing the police commission in the town of Wolfeboro.

Sen. Ferdinando
For The Committee.

Report is accepted.

HOUSE MESSAGES

The House of Representatives has voted to concur with the Honorable Senate in the passage of the following concurrent resolutions:

SCR 3, memorializing the President of the United States.

Whereas, The economy of the state of New Hampshire is substantially affected by the economic health of its shoe industries; and

Whereas, The percentage of foreign made shoes imported into the United States continues to increase rapidly; and

Whereas, The shoe industries in the state of New Hampshire have been adversely affected from the flood of foreign imports; and

Whereas, Unemployment has increased alarmingly in the state of New Hampshire in shoe industries because of the lack of quotas or tariffs on foreign imports;

Now Therefore be it Resolved by the Senate, the House concurring;

That we, the members of the New Hampshire Senate, and House of Representatives, do memorialize the President of the United States to establish such quotas and approve such tariffs as may be necessary to insure the preservation and economic health of our domestic shoe industries;

That signed copies of this resolution be certified by the secretary of state and sent to the President of the United States, the President of the United States Senate and Speaker of the United States House of Representatives.

INTRODUCTION OF HOUSE BILLS

First & Second reading & referral

HB 8, making correction in the laws relative to retail businesses. To Judiciary.

HB 22, relative to shooting animals hunted by dogs. To Recreation & Development.

HB 45, to reclassify certain sections of highway in the town of Newmarket. To Public Works & Transportation.

Sen. Spanos moved the Senate go into the Late Session.
Adopted.

LATE SESSION

Sen. Jacobson moved the Senate adjourn at 1:10 o'clock.
Adopted.

Thursday
21 Jan 71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

Most humbly do we thank you, O LORD, for your mercies of every kind, and your constant loving care. We bless you for

the gift of life, for its many opportunities, for your dependable nature, for your guiding Spirit, and for the many evidences of your love — especially for your revelation in the person of Jesus Christ. We honor you for friendship and challenge to duty, for good hopes and precious memories, for the joys that cheer us, and the trials that teach us to trust in you. O Heavenly Father, make us wise in the right use of your "Creation" and direct us in responsible action that we may glorify Your Way and serve well those whom we represent. Amen.

Pledge of Allegiance was led by Sen. Brown.

INTRODUCTION OF SJRS

First, second reading and referral

SJR 3, providing for a supplemental appropriation for the division of parks, department of resources and economic development. (Jacobson of Dist. 7 — To Finance.)

SB 29, relative to investigating cases of abandonment and neglect of dependents. (Morrissette of Dist. 16 — To Public Health, Welfare and State Institutions.)

HOUSE MESSAGE

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 57, prohibiting the use of a crossbow in taking fish, wild birds or wild animals. (To Recreation and Development.)

HB 44, to reclassify a certain section of highway in the town of Benton. (To Public Works and Transportation.)

HB 46, to reclassify a class V highway in the town of Sutton to a Class II highway. (To Public Works and Transportation.)

Sen. Spanos moved the Senate go into Late Session in memory of SP/4 William A. Malenfant of Nashua, N.H., 224th NH casualty in Vietnam.

Adopted.

LATE SESSION

Sen. Jacobson moved the Senate adjourn at 1:15 o'clock.

Adopted.

Tuesday
26 Jan 71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Guest Chaplain, Rev. William Clark.

O Thou, who hast endowed man with the potential of self government, grant to each of us here today the wisdom and purposeful dedication that we may govern well.

May there be a clear mandate for each deliberation, no sense of conformity to past decisions, party or policy — except as each becomes lucidly clear that their achievements are worthy and adequate. Yet, may a sense of loyalty for the best truth known to each, guide each thought and action.

In the sense that the destinies of the citizens, the business interests, the welfare of the needy, the sacredness of our environment, and all other activities for the common good are our responsibility, grant to each member of this Senate the insight necessary to minister adequately to all these ends.

As members of a team of government, we would ask that the endowment of your blessing to the Governor of our State, the President of our Nation, and all in authority in each branch of legislation — that we may indeed be a State and Nation deserving the name of being great and good. Amen.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 30, relative to the time after which the requirements of filing proof of financial responsibility may be waived. (Lamontagne of Dist. 1 — To Banks, Insurance and Claims.)

SB 31, relative to taking a motor vehicle without the owner's consent. (Nixon of Dist. 9 — To Judiciary.)

SB 32, recognizing common law marriage after thirty days cohabitation for the purpose of certain support obligations. (Morrissette of Dist. 16 — To Judiciary.)

SB 33, establishing a curfew for minors under sixteen. (Lamontagne of Dist. 1 — To Judiciary.)

SB 34, increasing the mileage allowance for members of the general court. (Jacobson of Dist. 7 — To Executive Departments, Municipal and County Governments.)

SB 35, eliminating certain duties of the secretary of state. (Jacobson of Dist. 7 — To Executive Departments, Municipal and County Governments.)

SB 36, relative to voting on zoning ordinance amendments at special town meetings. (Jacobson of Dist. 7 — To Executive Departments, Municipal and County Governments.)

SB 37, relative to the hours of employment for female laboratory technicians. (Jacobson of Dist. 7 — To Ways and Means and Administrative Affairs.)

SB 38, authorizing town by-laws on snow removal. (Jacobson of Dist. 7 — To Executive Departments, Municipal and County Governments.)

SB 39, relative to acquiring park and recreation areas in towns. (Jacobson of Dist. 7 — To Recreation and Development.)

SB 40, relative to petitioning for articles to be placed in town warrant. (Jacobson of Dist. 7 — To Executive Departments, Municipal and County Governments.)

SJR 4, appropriating funds for certain positions in the quality control unit of the division of welfare. (Snell of Dist. 4 — To Finance.)

HOUSE MESSAGE

INTRODUCTION OF HOUSE BILL

First, second reading and referral

HB 38, changing the due date for the payment of unclaimed pari-mutuel pool ticket money to the state treasurer. — To Executive Departments, Municipal and County Governments.

COMMITTEE REPORTS

SB 5

providing payment to persons for loss of existing mortgage financing where such persons are displaced as a result of high-

way activities. Ought to pass with amendment. Sen. Poulsen for Finance Committee.

AMENDMENT

Amend RSA 233-A:5-a as inserted by section 1 of the bill, by striking out said section and inserting in place thereof the following:

233-A:5-a Compensation for Loss of Existing Mortgage Financing. In addition to amounts otherwise authorized by this chapter, the commissioner shall pay to the owner of real property, acquired for a project an amount which is sufficient to compensate for the loss of existing mortgage financing. Such amount shall be paid only if the dwelling acquired by the state was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

Sen. POULSEN: This SB 5 allows for the payment of the difference in mortgage payments between an existing modified mortgage and a new one which would be much higher. It is a new set of regulations. This amendment covers and complies with the Federal qualities that they ask for in the computation of the mortgage.

Sen. KOROMILAS: Would you explain to us what this is about in terms of what kind of mortgages we are talking about?

How does the Federal Government get into it?

Sen. POULSEN: I assume they get into it on the share of highway funds for relocating highways and this would particularly apply to people who have to move and buy new houses.

Sen. KOROMILAS: This allows the difference in interest; is that correct?

Sen. POULSEN: That is correct.

Sen. KOROMILAS: If I purchased a house and was paying a certain amount of interest and the State took it over and the interest rate was higher, who would pay the difference?

Sen. POULSEN: The State Highway Department would pay the difference and it would be added to the price and this counted as an amount counting debt service and the whole bit brought up-to-date, and I believe they use the present rate of the National Bank which would be 4% or 4½% to amortize the money as a one sum amount that would be adequate as the cost of the payment of the whole house.

Sen. LAMONTAGNE: Mr. President and Members of the Senate, I introduced the original bill because I served the State as a land-damage commissioner and I have been in many places where we had some of our senior citizens and young people that have just purchased some property. Of course it affected more of the senior citizens because they did not have a mortgage and some of the mortgages were at 4½% and then when they were relocated, again it went as high as 9¼%. Therefore a lot of these people were really taking quite a beating, especially on these interest increases on mortgages.

Seeing this was going on is why I put in the bill the way it was originally written, but since then the Federal Government passed an act therefore making it necessary for the State to adopt the amendment that you now have pending before you as the way that the Federal Statutes now read.

I favor it very much, because I am sure that it is going to help a lot of these people who have to be relocated and at the same time, I consider it to be very much unfair for them not to have a mortgage and then to get a new mortgage at a higher interest rate. This will correct it.

Amendment adopted.

SB 8

providing that encumbered appropriations of tolls collected on Central New Hampshire Turnpike shall not lapse until the object thereof is accomplished. Ought to pass. Sen. Poulsen for Finance Committee.

Sen. POULSEN: This bill mostly affects cash flow. It doesn't change the amount of money; it simply means that the

State's fiscal year ending in the summer would ordinarily end in the middle of a construction job so that many paving jobs had to be left as two separate jobs.

This bill corrects this without costing anyone extra money. In fact, it saves money because it can allow jobs to be completed.

Adopted.

SB 9

providing that encumbered appropriations of tolls collected on Eastern New Hampshire Turnpike shall not lapse until the object thereof is accomplished. Ought to Pass. Sen. Poulsen for Finance Committee.

Sen. POULSEN: This bill is exactly the same as the other one. The other applied to Central throughways; this applies to the East toll road.

Adopted.

PERSONAL PRIVILEGE

Sen. SPANOS: Over the weekend, a matter has come to my attention which has shaken my confidence in the sensitivity of our laws; i.e. even their wisdom.

As you are probably aware, there is a strike going on in Springfield, Vermont involving a huge industry and the union there. There are quite a few N. H. workers involved in that labor dispute which has continued for quite sometime.

Many of these men have found employment elsewhere but have not terminated their relationship with the union nor their interest in the goals of the strike. They have too much at stake to abandon their vital concerns which affect their very being. Most of them hope to go back when and if the strike ends.

As I understand the situation. If these men should be laid off from their second job for one reason or other, they cannot (for some inexplicable reason) draw unemployment unless they are willing to terminate their relationship with the union or promise that they will go through the picket line.

One of these men worked 6 months with another concern, was laid off, and then denied unemployment benefits.

What is happening here, because of our laws, is that the State of N. H. is in fact minimizing the role of collective bargaining because it is forcing the union member to acquiesce by denying him his benefits. It is pressuring him into terminating his relationship which membership in the aggregate is the strength of the union and its efforts. It is indirectly helping to break the strike by withholding economic benefits which are essential to a man who has a family to support.

To me, Mr. President, this is tantamount to "STATE SCABBING" and I am sorely disappointed.

If the law is as I have been informed then as Charles Dickens' Mr. Bumble put it so eloquently and succinctly: "The law is an ass, an idiot."

Sen. SNELL: Mr. President and members of the Senate, Last week a door was opened to me and I found myself face to face with some cold hard facts that we, in this great Granite State, have been closing our eyes and minds too far, too long, It was a bit of a shock and of great dismay to realize how lax we all have been. Sometimes it seems to me that unconcern should be considered on a par with the deadliest of sins because it can be fatal or nearly so to some.

At the present time there are 233 men confined to the state prison. Prisoners who have been convicted of other offenses or parole violators who have been involved with drugs total one-fifth of the population at this institution. Yet this "Great Granite State" has not been able to hire a full time psychologist or a correctional psychiatrist for this institution because of lack of funds.

We must consider the best possible rehabilitation — offering the finest vocational training, education programs, psychological and psychiatric care available.

There is a sharp increase in the population at the state prison and law enforcement officials have indicated to me that this increase will continue at a rapid rate.

The 18 grievances established by the prisoners will be discussed at the Senate Health, Welfare and State Institutions committee meeting tomorrow afternoon at 2:00 P.M., Room 112. I will attend a meeting tonight at the state prison discussing these grievances with the prisoners.

Visiting the State Hospital last week gave me just another picture of an understaffed institution, dedicated workers but truly underpaid. I'm asking each freshman Senator to visit all of our state institutions.

Today I filed a Bill:

“MAKING AVAILABLE STATE OWNED RECREATIONAL AREAS TO EXCEPTIONAL OR DISADVANTAGED NEW HAMPSHIRE CITIZENS”

600 disadvantaged New Hampshire citizens will participate in a totally new approach of rehabilitation.

I will introduce a volunteer project during the next few weeks.

Mr. President and members of the Senate: Today marks a beginning — The unwanted will be wanted; those who have no friends will have a friend; those who haven't had a visitor in months will be visited.

In summary — one of William Danforth's famous quotes:

I dare you, whoever you are

To share with others

The fruit of your daring,

Catch a passion for helping others

And a richer life will come back to you

Sen. Spanos moved the Senate go into Late Session in memory of Lieut. J. G. Douglas Alan Townsend of Lebanon who died on Sunday.

Adopted

LATE SESSION

Sen. Nixon moved the Senate adjourn at 1:25 o'clock.

Adopted.

*Wednesday**27 Jan 71*

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Guest Chaplain David G. Hamilton from Concord, N. H.

Father, we thank you for the gifts of freedom and the mantle of responsibility which are ours. Draw our eyes to the high calling of our office. Tune our ears to the challenge of just government for all men. Pour into our hearts enlightened concern for others and make our minds attentive to the important tasks before us this day. Since we have but ourselves to offer in your service, grant that we may give ourselves entirely to the work of this new day, and that it may be counted an acceptable offering to the people of New Hampshire and above all to you. Amen.

Pledge of Allegiance was led by Sen. Provost.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 41, requiring notice be given the department of resources and economic development when a petition is filed for construction of electric lines etc. over public lands or waters. (Tufts of Dist. 23 — To Resources and Environmental Control.)

SB 42, increasing the membership of the commission advisory to the commissioner of resources and development and making the commissioner of public works and highways a member. (Tufts of Dist. 23 — To Executive Departments, Municipal and County Governments.)

SB 43, providing that the state geologist need not be a faculty member of a New Hampshire college or university. (Tufts of Dist. 23 — To Resources and Environmental Control.)

SB 44, relative to the time the school census shall be taken and repealing the statute dealing with school boards visits to

schools. (Downing of Dist. 22 — To Education.)

SB 45, relative to the purpose of issuance of bonds or notes. (Downing of Dist. 22 — To Executive Departments, Municipal and County Governments.)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 9, prohibiting the use of motor boats on Chocorua Lake. — To Resources and Environmental Control.

HB 37, to clarify certain provisions of law relative to psychologists and relative to increase in fees. — To Executive Departments, Municipal and County Governments.

HB 88, to legalize the proceedings of the special meeting of the Pembroke School District held on July 28, 1970. — To Education.

FURTHER MESSAGE

The House of Representatives has voted to discharge the Committee of Conference on Joint Rules, and the Speaker has appointed as new members of said Committee on the part of the House: Reps. George Roberts, James O'Neil and Miles Cares.

Sen. Spanos moved the Senate go into Late Session in memory of Frank Walker, late of Keene, N. H., who served in the House and as Sheriff of Cheshire County for many years.

Adopted.

LATE SESSION

Sen. Foley moved the Senate adjourn at 1:10 o'clock.

Adopted.

Thursday

28Jan71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

O LORD, our Heavenly FATHER, look down upon us this day and reveal to us the pathway of light and truth. Give us a clear vision to perceive those things which are amiss in our social order. Give us that ability to exercise true judgment, to be courageous, and to persevere in our quest for justice. Make us truly aware of all needs affecting our people as we are aware of the needs of each other. Enable us to strive wisely and diligently in our legislative endeavors and keep us in Thy Loving Care. Amen.

Pledge of Allegiance was led by Sen. McCarthy.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 46, relative to the department of resources and economic development duties. (Tufts of Dist. 23 — To Resources and Environmental Control.)

SB 47, relative to salary increases upon certification and eligibility for certification of certain medical personnel. (Smith of Dist. 3 — To Public Health, Welfare and State Institutions.)

SB 48, providing that offices of member of the general court and delegate to a constitutional convention are incompatible. (Townsend of Dist. 5 — To Judiciary.)

HOUSE MESSAGED BILLS

First, second reading and referral

HB 6, relative to the power of Hesser College to grant degrees. (Referred to Education.)

HB 21, relative to use of funds held by the Trustees of the Boscawen Academy in Boscawen. (Referred to Education.)

HB 31, relative to the filing of annual returns, false statements relative thereto and reservation of a name by a foreign corporation. (Referred to Executive Department, Municipal and County Governments.)

HB 36, establishing five o'clock as the closing hour for all cases relative to elections. (Referred to Executive Department, Municipal and County Governments.)

HB 43, relative to the power of White Pines College to grant degrees. (To Education.)

HB 54, legalizing the special town meeting held in the town of Newbury on May 23, 1970. (To Executive Department, Municipal and County Governments.)

HB 81, to reclassify certain sections of highway in the town of Meredith. (To Public Works and Transportation.)

Sen. JACOBSON: I move that the order whereby HB 88 was referred to the Committee on Education be vacated and reassigned to the Committee of Executive Department, Municipal and County Governments. This bill is a legalizing bill and does not come within the normal processes of the Committee on Education.

Adopted.

COMMITTEE REPORTS

HCR 9

pertaining to attache employment during the interim. Ought to pass. Sen. R. Smith for the Committee.

Sen. R. SMITH: Because of a constitutional provision that says that from the last Wednesday in December in the even-numbered years until the first Wednesday in January in the odd-numbered years there is no General Court in existence. This HCR 9 is necessary to pay employees and attaches of the General Court who worked during the period from December 30, 1970 through January 5, 1971, inclusive, the amounts they are entitled to for such employment.

Sen. KOROMILAS: What is the cost?

Sen. SMITH: The figure in the resolution is \$2,500. The actual cost up to this point is \$1,990.79; the difference being

the fear that there was one more person whose time had not been reported or they did not know about.

Sen. KOROMILAS: Are we going to have a report on who these people are?

Sen. R. SMITH: The information is available and it will be in the Senate Finance Room if anyone wishes to look at it.

Sen. JACOBSON: Would it also include Legislators who had a commission or committee meeting?

Sen. R. SMITH: I don't believe this concurrent resolution would.

Sen. JACOBSON: We had a commission meeting, which I am a member of, on January 5th and apparently these people will not be paid. This would be my understanding of the constitutional provision and the problem we had here. I could be incorrect; I would assume this would be so.

Sen. ENGLISH: We could have another resolution if there is no great rush.

Sen. JACOBSON: Mr. President, I would like to add an amendment to it, but I didn't realize this was coming in. It has to do with 5 members of the Legislature who had to have a meeting on that day.

One minute recess.

Sen. JACOBSON: Mr. President, so that all members of the Senate are informed of what we discussed, it relates to the Commission to study economic potentials of Mt. Sunapee State Park, because of the delay in getting the report and the inability of the consultant to meet with the commission. Prior to December 30th, it had to meet on January 5, 1971. When I checked about their receiving their pay, the clerk told me there is no Legislature; therefore, they could not technically be paid. The decision was not to amend this present bill, but to bring that in by new resolution. The President asked me if there are any other committees that had meetings. That they in fact contact the Clerk of our Senate and he will contact the Clerk of the House so that we can get one resolution and for that period.

Sen. LEONARD: There are two other committees. The Committee consisting of the Senate Judiciary on the consumer

bill and also recodification of the criminal code will be meeting during this session and there are members that are not members of the general court, so they have the same problem.

HCR 9 ordered to 3rd reading.

SB 6

providing that when highway work requires relocating municipally owned underground utility facilities the governmental agency doing the work shall pay for the trenching and backfilling. Ought to pass with amendment. Sen. Lamontagne for the Committee.

AMENDMENT

Amend section 1 of the bill by inserting at the end thereof the following: (The provisions of this section shall apply to any work which remains to be performed on any contract which is incomplete on the effective date of this section.) so that said section 1 as amended shall read as follows:

1 Relocation of Underground Utilities. Amend RSA 229 by inserting after section 6 the following new section: 229:6-a Cost of Trenching for Relocation of Underground Utilities. When the commissioner shall determine that a highway reconstruction, relocation, or maintenance project financed in whole or in part by state funds and conducted under Department of Public Works and Highways supervision or control necessitates the relocation of any municipally-owned subterranean utilities facilities, any trenching and backfilling required for such relocation shall be part of the cost of such reconstruction, relocation, or maintenance and shall be provided by the governmental agency which is carrying out such highway work at no cost to the municipally-owned utility. Provided, however, that if a public utility other than a municipally-owned utility makes use of a relocation trench provided for in this section, said utility shall pay the governmental agency carrying out such work its allocable share as determined by the commissioner, of the cost of such trenching and backfilling. The provisions of this section shall apply to any work which remains to be performed on any contract which is incomplete on the effective date of this section.

Amend section 2 of the bill by striking out the same and inserting in place thereof the following:

2 Effective Date. This act shall take effect upon its passage.

Sen. POULSEN: SB 6 allows for the State to do the actual ditching and covering but not for the laying of water lines that are involved. It has been amended to comply with the U. S. Government end of it. It also is amended to take effect immediately upon passage.

Sen. KOROMILAS: I fully understand the major portion of the bill. I have a question with respect to the latter part of the amendment. It talks about a utility that is not municipally owned. I am talking about a public utility. For example, public service or the telephone company. I note that it says that the utility shall pay the governmental agency carrying out such work its allocable share. Could you explain how the allocable share is computed?

Sen. POULSEN: If there are two utilities that are to be in a local ward, I presume that they would go halves on it; half of the cost of the digging and backfilling would be borne by the telephone company.

Sen. Lamontagne rose in support of the bill.

Amendment adopted. Referred to Committee on Finance.

Death Resolution in memory of Senator James MacLeod. Unanimously adopted.

Sen. Spanos moved the Senate go into Late Session.

Adopted.

LATE SESSION

Third reading and final passage of bill

HCR 9, pertaining to attache employment during the interim.

Adopted.

Sen. Tufts moved the Senate adjourn at 1:40 o'clock.

Adopted.

Tuesday
2Feb71

The Senate met at 1 o'clock

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

ALMIGHTY GOD, whose divine awareness is found throughout the universe, kindle in us insight and aspiration that this day may be a blessing to those whom we serve. Open our ears that we may hear, open our eyes that we may see, detach our minds from the incidental and fix them upon the eternal and everlasting values of life.

We would laud the continuing success of APOLLO 14 Astronauts Shepard, Mitchell, and Roosa; we would acknowledge the efforts of many of our citizens who have made this mission to the Moon possible. May the evidence of teamwork in their mission inspire our labors today. Amen.

Pledge of Allegiance was led by Sen. Morrissette.

LEAVE GRANTED

Sen. Koromilas, the day, illness.

INTRODUCTION OF SENATE BILLS

First, second reading & referral

SB 49, relative to the duties of the department of resources and economic development. (Tufts of Dist. 23 — To Executive Departments, Municipal and County Governments.)

SJR 5, in favor of John Lankhorst. (Bradshaw of Dist. 10 — To Banks, Insurance and Claims.)

PERSONAL PRIVILEGE

Sen. JACOBSON: Last Friday, I reached a new milestone, a *Concord-Monitor* editorial lovingly critical of a modest proposal of mine. One of my constituents excitedly told me that for once she recognized the individual getting an editorial kick-

in-the-teeth. I thought I might respond, as one looking up from the lower reaches of Dante's *Inferno* toward the high places, to the whole range of recent editorials. I had in mind the one which opposed ex-Senator Chandler because he wanted to require the selectmen to cover the travelling surface of bridges with snow for sleighs. The facts, of course, are the opposite. Or the recent one, calling the act of balloting for legislative presiding officers unconstitutional based on an interpretation of Article 8 of New Hampshire's Constitution. The facts are that Part Second, Article 22 deals with this question rather than Article 8 of the Bill of Rights. Again, I considered that editorial denominating this Senate in the 1969 session as being relatively a failure would be worth about forty minutes of rebuttal. Naturally, I was tempted. However, on the previous evening I listened to my distinguished colleague, Senator Nixon, who averred that Senate speeches aren't worth a tinker's damn anyway. On that advice, I relented, to a degree at least.

I was invited to justify my proposal in the news print. I remembered, however, that in the Gospels, a lawyer who tried to justify himself before the Christ came off rather badly. Being of considerably lower occupational stratum, I did not dare risk it. I had the feeling that this was like asking the hangman for mercy after he has sprung the trap door.

I do, however, want to make a counter proposal. If Tom Gerber will arrange to transport me back and forth from New London to Concord, I will give him my mileage check. Four things will happen. I will be better off economically. I will reduce the physical stress occasioned by driving. I can more profitably spend my time doing a little extra work for my constituents. And finally, I would save one parking space in the Senate parking lot. I see this as a most reasonable solution at least for me, but I wonder if we can also work something out for the other 423 Representatives and Senators.

Sen. Spanos moved that the Senate do now adjourn from the early session, and that on third reading all bills be read by title only and resolutions by caption only, and that when the Senate adjourns today it be until tomorrow at 1:00 p.m.

Adopted.

LATE SESSION

Sen. Downing moved the Senate adjourn at 1:10 o'clock.

Adopted.

Wednesday

3Feb71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

ALMIGHTY GOD, our Heavenly FATHER, we lift up our hearts and lives to Thee, seeking Thy blessing upon this Legislative Body today. Thou hast made us one in our need of Thee, one in our desire to know Thy Will, one in our yearning for a strength beyond the self, one in our quest for the peace which passeth all understanding. Cleanse our hearts and open our minds that Thy Truth may enter our lives, to the glory of Thy Son, Jesus Christ our Lord. Amen.

Pledge of Allegiance was led by Sen. R. Smith.

HOUSE MESSAGED BILLS First, second reading and referral

HB 58, authorizing persons seventy years of age or over to hunt, fish and take certain marine species without a license. (Recreation & Development)

HB 62, relative to bob houses on the ice and to removing mussels in Hampton river harbor. (Recreation & Development)

HB 77, relative to the powers of the board of nurse registration, duties of nurses, and increasing certain fees. (Public Health, Welfare & State Institutions)

HB 79, permitting eighteen year olds to serve liquor and beverage in certain cases as an incident to his or her primary employment of serving food, liquor or beverage to patrons. (Ways and Means & Administrative Affairs)

HB 98, to control snowmobiles and motor vehicles within highway rights-of-way. (Public Works & Transportation)

HB 33, relating to fishing without a license by patients at the Dartmouth-Hitchcock Mental Health Center. (Recreation & Development)

HB 42, providing that persons imprisoned for offenses against order and decency may be committed to a house of correction or to a county jail. (Judiciary)

ANNOUNCEMENTS

Sen. Spanos announced that Frank Conway would be his Legislative Assistant and Sen. Eileen Foley would be his Assistant Minority Leader.

The Chair announced the appointment of Sen. Provost to the Budget Advisory Committee and the Chair further announced that the Chairman of Finance is automatically a member of that group.

Sen. Spanos moved that the Senate do now adjourn from the early session, and that on third reading all bills be read by title only and resolutions by caption only, and that when the Senate adjourns today it be until tomorrow at 1 o'clock.

Adopted.

LATE SESSION

Sen. Marcotte moved the Senate adjourn at 1:10 o'clock.

Adopted.

4Feb71

Thursday

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

O GOD, Creator and Sustainer of all life, widen our horizons with such understanding to perceive and know the needs of our "Granite State"; so deepen our convictions that they may rest upon true wisdom; give light and vitality to our thoughts,

purposes, words, and deeds, that we might honor Thee, serving well the just needs of our citizens.

Watch over APOLLO 14 Astronauts Shepard, Mitchell, and Roosa as they complete the preparations for tomorrow's lunar landing, guard them against any harm and all danger, returning them safely to Earth. Amen.

Pledge of Allegiance was led by Sen. Roger Smith.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 50, relative to rights of appeal in unemployment compensation matters. (Lamontagne of Dist. 1 — To Ways and Means and Administrative Affairs.)

SB 51, providing for the commissioners of safety and education to devise standards for the conduct of driver education courses and to eliminate restricted instruction permits for fifteen year olds. (Foley of Dist. 24 — To Public Works and Transportation.)

SB 52, establishing a medical advisory board in the division of motor vehicles, department of safety, and making an appropriation therefor. (Smith of Dist. 3 — To Public Works and Transportation.)

Sen. Spanos moved that the Senate Journal of today containing Rev. Shafer's prayer be transmitted to the families of the astronauts and that the clerk be instructed to send it along.

Adopted.

HOUSE MESSAGED BILLS

First, second reading and referral

HB 155, to provide for additional unemployment benefits. (Ways and Means and Administrative Affairs)

HB 32, providing for county contributions to tuition paid for the education of handicapped children. (Executive Department)

HB 61, relative to fish and game licenses issued by the fish and game department. (Recreation and Development)

HB 64, empowering the pesticides control board to pro-

hibit or restrict the sale and use of certain pesticides. (Resources and Environmental Control)

HB 67, providing for Port Authority appointed pilots to pilot certain vessels in the Piscataqua river and harbor. (Public Works and Transportation)

RECESS.

COMMITTEE REPORTS

SB 15

raising the population figure of cities that require sealer of weights and measures and providing an appropriation for the administration of the weights and measures act. Ought to pass with amendment. Sen. Jacobson for the committee.

AMENDMENT

Amend the bill by inserting after section 2 the following new section 3:

3 City Sealers Voluntary in Certain Cities. Amend RSA 359-A by inserting after section 16 the following new section: 359-A:16-a Sealer of Weights and Measures in Cities of Not Less than Seventeen Thousand but Less Than Thirty-five Thousand. Any city of not less than seventeen thousand but less than thirty-five thousand population, according to the latest United State census, may by vote of the legislative body thereof provide for the appointment of a city sealer of weights and measures who shall be appointed and have the same powers, duties and responsibilities as such officer in cities of not less than thirty-five thousand. In like manner such action may be repealed.

Further amend the bill by renumbering the sections previously numbered 3, 4 and 5 to read 4, 5 and 6 respectively.

Sen. JACOBSON: Mr. President, SB 15 deals with three items in the present statute regarding the sealer of weights and measures. The first changes the present voluntary registration of persons engaged in servicing weights and measures equipment and provides that they must now be registered. According to the department, the present law allows for fly-by-night people coming in from neighboring states or within the state for that mat-

ter who are not basically qualified nor who will be responsible for their work so as to gain a greater uniformity in the kind of service performed; the voluntary aspect is removed.

There are in the statutes nine rules with regards to establishing standards. The statutes however only allow for a misdemeanor for the first four. Apparently there was a misprinting and therefore it corrects that and changes that from one to four and one to nine.

The amendment offered by the committee changes part two on page three of the bill where in the original bill would bring in all towns from seventeen to 35,000 and under the control of the state. The amendment allows a voluntary participation, that is, those cities from 17 to 35,000 who wish to have the state take over the management of inspection may do so. Those cities in that category who do not want to need not do so. This is specifically at the request of Keene; that is essentially the amendment.

Nashua and Manchester, who are the other two cities, have their own city sealer at the present time and are not affected by these changes.

Adopted.

Referred to Committee on Finance.

SUSPENSION OF THE RULES

Sen. Tufts moved suspension of the rules regarding reports not previously advertised.

HB 155

to provide for additional unemployment benefits. Sen. Tufts for the committee.

Sen. SPANOS: Mr. President, I do not arise in opposition to the suspension of the rules nor in opposition to the merits of this bill which extends unemployment benefits 9 weeks. We all want to assist those of our unemployed community who are running out of benefits which they need to sustain their families.

What I object to is the manner on which this bill appears before us. This is the first occasion that I have had as to the process the bill would take or that this measure is to be acted

upon today. It leaves me as the party leader and the minority membership in the dark — and this is unusual.

On a major issue such as this I would expect that we should have been alerted to its coming and we should have been in it from the start. It has been so in the past. On one occasion I can remember one leader apologizing for a whole week because a matter was processed without my knowledge. I believe that we are entitled to this courtesy — as individual Senators and as members of the minority in this Chamber.

When this session began, Gov. Peterson called the House Minority leader and I into his office to discuss with us his desire to increase the state's borrowing capacity and for this thoughtful gesture we thanked him, I informed my membership and we supported him.

As I left the Governor's office that day I said to him: "Governor I sincerely hope that you will call on us on occasions other than when your office is in difficulty. And I was referring to this legislation. It is like motherhood.

But what happened? A press conference was called by the Governor with only the majority leadership, the Governor, former President Lamprey and Ben Adams in attendance and there the announcement to extend was made. Since then all press releases that I have seen have made this a G.O.P. effort.

After the fact, the House Minority leader was asked to co-sponsor the bill.

I am sorry that the Governor chose to act as he did in an area which concerns all our people and both political parties and deserves the cooperative effort of all.

This practice is the kind of "political game" which Senate Jacobson abhorred in an earlier speech on this floor.

Otherwise I fear for the progress and accomplishment of this session.

Sen. S. SMITH: I would like to rise in support of the motion to suspend the rules and to state only that in my understanding of this bill itself in its original draft certainly it was bi-partisan sponsorship with Mr. Raiche on the bill that I personally attended the hearing that was held and I don't feel that there was any intent of any manner to make this a non-partisan bill.

Adopted.

Sen. TUFTS: This bill started out in the House of Representatives to accomplish the purposes of extending a number of weeks for which unemployment benefits may be paid. The original proposal called for the State of New Hampshire to absorb the total cost of this extension from its funds. The length of time which it took in passing from the House to the Senate was involved in deliberations and activities to try to assure that if it was possible, federal funds might be available and could be reimbursed to the State of 50 percent of the benefits which we would be extending to these people who are unemployed.

Those deliberations on the part of aids to the legislature and to the Senate Ways and Means Committee are what have taken the time which you graciously allowed to the Ways and Means Committee. The Committee has reviewed the matters and reviewed it with the people who have been working on the measure so that we may avail ourselves of these federal funds if possible.

The Committee has deliberated and unanimously voted that this is a worthwhile project. We should do it whether the State of New Hampshire has to absorb it entirely, either by a \$54 million fund or whether we may seek and successfully be reimbursed up to 50 percent of these funds which we may expect. We hope you will look with favor upon our recommendations.

Sen. LAMONTAGNE: Mr. President, I rise in support of the proposed motion, and at the same time, I only feel that being a member of the minority party and also being a member of the Ways and Means Committee, that it is only fair to say to all senators here that, including our chairman and both Republicans and Democrats, we just were not aware of the amendment and therefore I could not see where that this information could have been gotten before, and therefore the committee took the time to call people in to learn about the proposed amendment.

Now, as far as for the original bill, there was absolutely nothing wrong with the original bill the way it was written, but the reason why the original amendment was put on was in order that, in the future, they might be able to get some federal funds. But certainly I am sure that none of the members of Republican and Democratic Committee knew anything about it.

Sen. MORRISSETTE: I rise in support of the bill, although I'd like to say that I hope that in the future, we are given an opportunity to have a bill reach the copy, especially a member of the committee. I was extremely surprised to learn that the unemployment rate was only 3.8 percent instead of 6 percent. The bill is changed completely; it was supposed to be a temporary emergency measure and now it is a permanent thing. I was also a little disappointed that our membership was not informed of the complete change from the bill where I could have consulted with the leader of my party, who is far more knowledgeable than I am in proceedings. This is what has bothered the temporary legislation, but it is not temporary in that it makes it permanent that we will have to pay 39 weeks of unemployment. I understand that the major reason for the amendment was because of the bill that is coming out, I think next week or the week after that, and because that bill will render this one non-existing and because of the emergency of the people who are currently unemployed, I favor this bill.

Again, I wish to emphasize that I hope that as a member of the Ways and Means Committee, that in the future, while we have changes in the House that are of a permanent nature, that we will be informed.

Again, I want to emphasize that I favor it because of the urgency and necessity of the problem that the people up north are facing.

Sen. LAMONTAGNE: I would like to add to the comments that were made. The emergency is that if it was not passed, then those who would get the benefits would lose one week. This is why we had this emergency and why both houses had to wait.

Sen. TUFTS: There were some other remarks which might be corrected and I am afraid that the senator feels that some members of the committee had information before he did. Every member had the same information. Speaking as Chairman, the Chairman received no more information than did any member of the committee. I think that it might be open to question as to the length of time that the House Committee had this measure and considered these amendments. I am sorry that I didn't have a chance to talk with Senator Morrisette about that because I think there were a couple of questions that might be raised.

Sen. FERDINANDO: Sen. Tufts, what was the reason for the permanency in the bill and why was it changed from temporary to permanent?

Sen. TUFTS: Because in the deliberations with the federal authorities in Boston and Washington, it was their advice that we should write it in this permanent fashion as long as we had made the decision in the House that the State of New Hampshire would extend their benefits from 26 to 39 weeks. They thought we should write it for a permanent nature rather than just making a go to the third of April because they felt it would help the State of New Hampshire in applying for these federal funds.

The federal people and the New Hampshire people are working on revising their standards and the federal people feel that this is very worthwhile; not solely in an emergency. Therefore, they have suggested that the way which they have already worked up in their proposal be adapted for this purpose, and that we adapt it now, today, to show that we have considered it and that we do feel that it is a worthwhile proposal to extend from 26 to 39 weeks. Further, it is not exactly accurate to say that this is permanent because, in the first place, these new standards are going to be proposed to the New Hampshire legislature and, at some subsequent time, some senator on the Ways and Means or any other committee felt that this move was not in the best interest of the State of New Hampshire, in the next week or ten days or five months, could introduce legislation which would change this.

Sen. JACOBSON: Was there a hearing held on the amendment as it stands now?

Sen. TUFTS: Not that I know of, Senator. There was a hearing held on the bill, but I don't know if there has been one held on the amendment.

Sen. JACOBSON: In other words, Senator, those people who are directly concerned with the responsibility of this have not yet had the opportunity to be heard?

Sen. TUFTS: I do not know what people you are referring to, but certainly the Ways and Means Committee of the Senate, which is concerned with financial matters, has considered them and further, have been in communication with the Governor's

Office and they have been in communication with the Division of Employment Security. As I mentioned here in my remarks, we have considered the effect of this upon the funding of \$54 million.

Sen. JACOBSON: What is the source of this money?

Sen. TUFTS: The source of this the fund that is paid by the employer and the employee and to some extent from the federal government and to some extent from the interest that the money accumulates.

Sen. JACOBSON: In other words, neither employers nor employees have had the opportunity to be heard on this?

Sen. TUFTS: That is possible.

Sen. GARDNER: What percent does the employee pay?

Sen. TUFTS: I could answer that, but I don't have the information here.

Sen. NIXON: The proposal now before us will extend this until additional legislation changes it. The benefit payment period is from 26 to 39 weeks. Is that correct?

Sen. TUFTS: Yes.

Sen. NIXON: In any hearing, either the hearing on the original proposal, which, as I understand it is a one shot proposal now before us, was there any testimony given one way or the other on the long range effects, sociological as well as economic, of extending the period?

Sen. PORTER: I will try to explain a little more about the amendment on HB 155. The solution offered in the amendment is to provide an answer to the problem of a temporary rise in unemployment above a percentage of 3.7 percent and if that does occur, the commissioner may extend the benefit period by 13 weeks which would effectively satisfy the position you are in today. It's a permanent solution to a temporary situation.

Sen. JACOBSON: Mr. President, I just want to express a concern that I have that every employer in this state is at least potentially concerned with this bill. I hope that possibly our Ways and Means Committee will hold a hearing allowing these people to come down and talk about this. There is still time if there needs to be changes. I have been one who believes in

fast legislation, but I think that they should have the opportunity to come down and discuss this with at least our Ways and Means Committee. I am hopeful that committee will be there.

Sen. FERNINADO: As I understand it, if this bill does not pass today and go through, there will be people whose unemployment drawn out will not receive checks. I think this is true and I would like to know if you know the answer to this.

Sen. TUFTS: I believe that this is true. If you are trying to say that I am not going to support this bill, that is not what I said.

Sen. FERDINANDO: The other question; could not the question which you have brought up in your statement, could this not be resolved by legislation coming in next week or at another time by the introduction of a bill?

Sen. TUFTS: I have no notion whether there will be such a bill or not.

Sen. FERNINADO: Could it not be?

Sen. TUFTS: My answer to that would be in all possibilities, the employers may be satisfied, but I think they ought to have had the right; mind you, I am not a protagonist for employers, but I believe that everyone should have the right, whether they are employees or employers, to be heard on bills that profoundly affect them.

Sen. LAMONTAGNE: I think that I might be able to answer that question. Senator, do you feel that this is chargeable to the employers?

Sen. JACOBSON: Sen. Lamontagne, I am not an expert on unemployment compensation but as I understand it from some of the readings that I have gotten from my constituents, employers do have to pay unemployment compensation.

Sen. LAMONTAGNE: Senator, I think you should read section 8; that might explain what you are worried about. See page 5.

Sen. FERDINANDO: If we don't act on this bill today, what are the consequences if this was made a special order for Tuesday at 1 o'clock? What would the effects be?

Sen. TUFTS: The effect would be the loss of one week's benefit for certain hundreds of people in New Hampshire who have been unemployed for at least 26 weeks.

Sen. FERDINANDO: Am I correct in assuming that there would be a delay in payments?

Sen. TUFTS: No. It would be an absolute loss. We investigated this thoroughly with the employment people and that said there was no way we could recover this week for the people who are unemployed.

Sen. NIXON: I rise in support of the motion and hope the bill will be voted ought to pass.

Adopted.

SB 25

modifying the requirements for membership on a municipal budget committee. Ought to pass. Sen. Poulsen.

Sen. POULSEN: This amendment clears up and eliminates that qualification of serving on a municipal budget committee that might be considered unconstitutional.

Adopted.

HB 88

to legalize the proceedings of the special meeting of the Pembroke School District held on July 28, 1970. Ought to pass. Sen. Ferdinando, for the committee.

Sen. FERDINANDO: This bill legalizes the provisions of the special meeting of the people in the Pembroke School District. The people in the Pembroke School District did not become eligible to utilize the agreements of their borrowing structure. This bill corrects the situation. We urge your passing of this bill.

Adopted.

SB 4

relative to the composition of the judicial council. Ought to pass with amendment. Sen. Nixon, for the committee.

AMENDMENT

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Clerk of Superior Court to be Member, and Probate Member Selected by the Justices. Amend RSA 494:1 (supp) as amended by 1969, 395:1 by striking out the same and inserting in

place thereof the following: 494:1 Judicial Council. There is hereby established a judicial council which shall consist of a justice of the Supreme Court, selected by the justices thereof, a justice of the Superior Court, selected by the justices thereof, a judge of probate, *selected by the justices thereof*, the Attorney General, the president of the New Hampshire Bar Association, a clerk of the Superior Court, selected by the clerk's association, and seven other members appointed by the governor with the advice and consent of the council, of whom not less than four shall be members of the bar of wide experience.

2 Effective Date. This act shall take effect sixty days after its passage for the addition of the member who is clerk of the Superior Court and shall take effect upon the expiration of the term of the probate judge now serving on the council so far as it relates to the change in the method of the selection of such member.

Sen. NIXON: This bill provides for the addition of one member to the judiciary council. The membership consists of 12. This would provide for 13, that new member to be a representative of the New Hampshire Superior Court. The amendment would provide for only one thing and that is a difference in the manner of electing the probate judge member of the judiciary council.

Adopted.

Sen. Tufts moved rules be suspended to put HB 155 on third reading and final passage at the present time.

Adopted.

THIRD READING OF SENATE BILL

HB 155, to provide for additional unemployment benefits.

Sen. S. Smith moved reconsideration. Motion lost.

Sen. Ferdinando moved rules be suspended to put HB 88 on third reading and final passage at the present time.

Adopted.

THIRD READING OF HOUSE BILL

HB 88, to legalize the proceedings of the special meeting of the Pembroke school district held on July 28, 1970.

COMMITTEE REPORTS

SB 7

permitting persons convicted of certain sex crimes to waive psychiatric observation and examination. Ought to pass with amendment. Sen. Leonard for the committee.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

permitting persons convicted of certain sex crimes to waive psychiatric observation and examination, and removing the minimum time for which they may be so committed.

Amend section 1 of the bill by striking out the same and inserting in place thereof the following:

1 Waiving Psychiatric Examination and Eliminating Minimum Period for Commitment. Amend RSA 173-A:3, I (supp) as inserted by 1969, 443:1 by striking out said section and inserting in place thereof the following:

I. When Required. Whenever a person is convicted of one or more of the following sex offenses: unnatural and lascivious act, bestiality, sodomy, enticing female child, rape, except in the case of rape where the woman is under the age of sixteen and carnal copulation is without force and not against her will, or any attempt to commit such offenses, the convicting court shall, prior to sentencing, commit such person to the New Hampshire Hospital for psychiatric observation and examination, for a period of not more than ninety days. However, the defendant, with the court's permission, may waive such observation and examination. Whenever a person is convicted of one or more of the following sex offenses: incest, rape where the woman is under the age of sixteen and carnal copulation is without force and not against her will, or is convicted more than once for lewdness or indecent exposure, or any attempt to commit such offenses, the convicting court may in its discretion, prior to sentencing commit such person to the New Hampshire Hospital for psychiatric observation and examination, for a period of not more than ninety days. The New Hampshire Hospital may require the cooperation of any state agencies in obtaining and furnishing information. It may also require any

agency, public or private, to furnish copies of any information or records in the possession of such agency, without court order and notwithstanding any other provisions of the law as to the use or availability of such information or records. Prior to the end of ninety days, the superintendent of New Hampshire Hospital shall file a report with the committing court to include one of the following conclusions:

(a) That said person is not considered to be a dangerous sexual offender but that he is in need of and amenable to psychiatric treatment and that hospital confinement be continued until further order of the court, or until expiration of the maximum time for which said person is sentenced.

(b) That said person is not considered to be a dangerous sexual offender and does not require psychiatric treatment.

(c) That there is psychiatric and/or psychological evidence suggesting that said person might be a dangerous sexual offender. A certified copy of this report shall be served upon the person examined with three days after the filing thereof with the court.

Sen. NIXON: This bill would permit a person who was charged or convicted of a crime involving the possibility of his being determined a sex psychopath to waive the required period of observation at the State Hospital in that regarding if the judge presided at the time would agree. The amendment provides that if the waiver is not agreed to by the judge or not requested by the defendant involved in the commitment, period does not have to last the minimum of 30 days.

Adopted.

SB 23

relative to probable cause hearings. Ought to pass. Sen. Jacobson for the committee.

Sen. JACOBSON: Under the present statute a person may be secretly indicted by a grand jury while at the same time be in the process of a preliminary hearing for probable cause. The effect of that is that an indictment is returned while the facts of the case are being heard in a probable cause hearing. SB 23 corrects this. There cannot be an indictment by the grand jury until a decision has been made by the lower court.

Adopted.

HCR 11

extending the time for the report of the Manchester ward commission. Ought to pass. Sen. Downing for the committee.

Sen. DOWNING: The purpose is to alter the date to April 1 which could be complied with.

Adopted.

HB 45

to reclassify certain sections of highway in the town of Newmarket. Ought to pass. Sen. Lamontagne for the committee.

Sen. POULSEN: HB 45 has to do with the section of a connecting road in the town of Newmarket so that the town is brought up to quality; that the state can accept as Class II. It is much wanted by the Highway Department and the selectmen of the town.

Adopted.

ENROLLED BILLS REPORT

HB 155, to provide for additional unemployment benefits.

Sen. Provost
For the Committee

Sen. Jacobson moved that the Senate do now adjourn from the early session, and that on third reading all bills be read by title only and resolutions by caption only, and that when the Senate adjourns today it be until next Tuesday at 1 o'clock.

Adopted.

LATE SESSION**Third Reading and Final Passage**

SB 25, modifying the requirements for membership on a municipal budget committee.

SB 4, relative to the composition of the judicial council.

SB 23, relative to probable cause hearings.

SB 7, permitting persons convicted of certain sex crimes to waive psychiatric observation and examination and removing the minimum time for which they may be so committed.

HB 45, to reclassify certain sections of highway in the town of Newmarket.

Adopted.

Sen Snell moved the Senate adjourn at 4:00 o'clock.

Adopted.

Tuesday

9Feb71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain Rev. William L. Shafer.

This week, O LORD, we would honor the work of the BOYS SCOUTS of AMERICA for the ideals expressed in their Scout Law and Scout Oath and for the opportunities of service and citizenship promoted in their every endeavor.

As we note the continuing success of the APOLLO 14 mission, we would pray for a successful conclusion this afternoon in "splashdown & recovery operations."

As we now assume our legislative responsibilities for this day, guard us from error and guide us in truth, ever mindful of the challenges that brought us to this place of service and honor. Amen.

Pledge of Allegiance was led by Sen. Downing.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 53, providing for a study of and the preservation of the ledges on Profile Mountain and making an appropriation therefor. (Tufts of Dist. 23 — To Resources and Environmental Control.)

SB 54, relative to the 1971 appropriation for the division of parks and providing for time and one half pay for overtime work by employees engaged in snow-farming. (Jacobson of Dist. 7, Spanos of Dist. 8 — To Finance.)

COMMITTEE REPORTS

SB 8

providing that encumbered appropriations of tolls collected on Central New Hampshire Turnpike shall not lapse until the object thereof is accomplished. Ought to pass. Sen. R. Smith for the Committee.

Sen. R. SMITH: SB 8, and 9 also which is to follow, have been passed by this body on January 26 and reviewed by the Finance Committee. The Highway Department was in favor and we recommend its passage.

Adopted.

SB 9

providing that encumbered appropriations of tolls collected on Eastern New Hampshire Turnpike shall not lapse until the object thereof is accomplished. Ought to pass. Sen. R. Smith for the Committee.

Sen. R. SMITH: This SB 9 is a companion to SB 8. It was in two bills because it effected two laws. One dealing with the Central New Hampshire Turnpike and one dealing with the Eastern New Hampshire Turnpike.

Adopted.

SB 5

providing payment to persons for loss of existing mortgage financing where such persons are displaced as a result of highway activities. Ought to pass. Sen. R. Smith for the Committee.

Sen. R. SMITH: Mr. President, SB 5 is the same bill that passed the Senate on January 26. There is no objection to the bill in Senate Finance and we recommend its passage.

Adopted.

HB 44

to reclassify a certain section of highway in the town of Benton. Ought to pass. Sen. Lamontagne for the Committee.

Sen. POULSEN: HB 44 was introduced by Rep. Sherman. Actually, it was introduced by Rep. Nelson Chamberlin. We

pick up a few dollars by having the road Class V. The town very much wants it to go through.

Adopted.

ANNOUNCEMENT

The Chair announced that he has been informed that the Governor will be prepared to deliver his budget message on Thursday, February 11 at 11 o'clock in joint convention.

Sen. Spanos moved that the Senate do now adjourn from the early session and that on third reading, all bills be read by title only and resolutions be caption only and that when the Senate adjourns today, it be in honor of National Boy Scout Week, and meet tomorrow at 1 o'clock.

Adopted.

LATE SESSION

Third Reading and Final Passage of House and Senate Bills

SB 8, providing that encumbered appropriations of tolls collected on Central New Hampshire Turnpike shall not lapse until the object thereof is accomplished.

SB 9, providing that encumbered appropriations of tolls collected on Eastern New Hampshire Turnpike shall not lapse until the object thereof is accomplished.

SB 5, providing payment to persons for loss of existing mortgage financing where such persons are displaced as a result of highway activities.

HB 44, to reclassify a certain section of highway in the town of Benton.

Adopted.

Sen. Foley moved the Senate adjourn at 1:15 o'clock.

Adopted.

Wednesday
10Feb71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain Rev. William L. Shafer.

O GOD, who, in the midst of changing times, remains faithful and constant, a very rock of strength and a tower of truth; we pray for the steadying presence of Thy Spirit. We pray for those who fear change — give them faith and courage and the spiritual and material resources to find newness of life within, in the midst of newness of life without. We pray for those, who, in impatience, long for change — give them faith and courage and the discernment not to embrace, in their bewilderment, a change for the worse. We pray for all who accept change, and who endeavor to make of it progress and growth — give them faith and courage to meet every temptation with integrity, all hostility with love, each difficulty with a reasoned determination to serve GOD and man. Amen.

Pledge of Allegiance was led by Sen. Leonard.

INTRODUCTION OF SENATE BILL

First, second reading and referral

SB 55, validating the marriage of Joseph and Anita Poulin. (Lamontagne of Dist. 1 — To Judiciary.)

COMMITTEE REPORT

CACR 5

Relating To: Granting the legislature greater flexibility in raising public revenue through the power to tax, and Providing That: Property other than land may be classified by kind, use or amount and such classes taxed differently. Ought to pass. Sen. Jacobson for the Committee.

Sen. JACOBSON: Mr. President, this CACR deals with a question which all of us would like to dodge and yet I think

we all know in our hearts we cannot dodge it. It is the methodology with which we tax the citizens of New Hampshire. At the present time, our constitution limits the legislative power of taxation to proportional forms. That is, if you want an income tax, you must set it at a proportional figure. It cannot have any flexibility.

This CACR has, as its aim, to allow a constitutional change whereby different kinds of properties and different methods of taxation would be allowable on a flexible basis. For example, instead of having a proportional income tax, one can then, if this should be part of our constitution, have a graduated income tax. This is essentially what this CACR is about.

Now, I want to make it perfectly clear that we are not voting a flexible tax structure. We are voting to put it to the people for their vote if they want to empower the legislature in the future to create tax structures which have a flexible basis.

Sen. SPANOS: Mr. Chairman, distinguished members of the Senate. Not too long ago the constitutional amendment before you (during a rather acrimonious Senate debate) was characterized by former Sen. John P. H. Chandler as an "*instrument of the devil*." May I say that I consider it neither "*demoniac*" or "*divine*" — just very "*humanistic*," as it takes into account the "ability to pay" principle which, in my opinion, is the fairest, most equitable, and yes, the most "*moral*" basis for the levying of taxes on the citizens of this state.

The principle wrapped up in this constitutional amendment I have promoted as a delegate to the Constitutional Convention, twice as a member of the House of Representatives and three times as a member of the Senate, because I believe that it contains the necessary ingredients to bring about a tax structure which is far more sensitive to the "*invisible taxpayer*" of our society than our existing revenue-raising process. If I sound like a broken record when it comes to the thrust of this measure, I apologize — and I sincerely hope that you will forgive me. It just so happens that it goes to the "*guts*" of my political being.

The wording of the New Hampshire Constitution, as interpreted by the New Hampshire Supreme Court, prevents our legislature from levying many kinds of taxes that are permitted by the Constitution of other states — and this is unfortunate — for we are a half-a-Legislature being so confined.

Let me say at the outset that this constitutional amendment deals with the "*power to tax*" — not the "*levying of a tax.*" If this amendment is adopted by the General Court and ratified by the people, it does not mean that a tax has been passed. It merely gives to the Legislature the power to tax in areas heretofore prohibited. (I don't have to tell you that our Legislature has had since 1903 the power to impose a flat rate general sales tax and flat rate general income tax but that power has not been as yet exercised. But *if* the day comes that a broad based tax is necessary, the Legislature can levy one which is based on ability to pay.)

Now here are examples of some of the approaches our General Court cannot take:

With respect to sales taxes — it cannot levy a sales tax of 1% on automobiles and 3% on jewelry. The Legislature, today, may impose a sales tax but the rate on all items must be the same.

With respect to inheritance taxes — it cannot levy a tax of 5% on the estate passing to a brother and 10% on the estate passing to a distant cousin. It cannot levy a tax of 1% on an estate less than \$10,000.00 and 4% on an estate of 1 million. Inheritances in New Hampshire are taxed at a rate of 15% and the rate must be the same no matter how little or how much a person leaves (and with a few exceptions) to whom it is left to.

With respect to income taxes, the Legislature cannot levy a tax of 4% on interest and dividends and 2% on earned income; or levy a tax of 1% on a man's income between \$8,000.00 and \$30,000.00 and levy a 3% tax on a man's annual income in excess of \$30,000.00; or levy a corporate income tax at 1% and no tax on personal incomes. Under our system we cannot tax incomes at progressive or graduated rates.

I might add that under this amendment, the Legislature could consider taxing different properties at different rates like machinery vs. stock-in-trade.

I realize that there will be many who will parade out a bunch of "*imaginary horrors*" concerning this amendment. This group will say that this amendment will open up the door to a "*broad-based tax.*" Mr. Chairman, that power we have to-

day. We "*can*" impose a broad-based tax tomorrow if we desire. The only difference is that any broad-based tax we might pass now must be a flat tax (be equal and proportionate) with the burden falling equally on all our citizens no matter their economic standing in the community. "*The affluent*" and "*those trapped at the bottom of our society*" must be treated alike — and *this is wrong* — outrageously wrong.

I submit that those who oppose the concept contained in this amendment wish to preserve the status quo because our current, antiquated, regressive, "*soul-less*" tax machinery is geared towards benefiting those who are "*best*" able to pay — at the expense of those "*least*" able to pay — the invisible taxpayer, I call him.

Yes, there is a stubborn inflexibility in our Constitution which has prompted our own Supreme Court to call our system "*primitive*" and to conclude that a more just structure could be created if the Constitutional restrictions were removed.

Unless these limitations are, in fact, eliminated, we will continue to come up with splinter taxes, so-called and stop-gap revenue measures; a penny on cigarettes, a penny on beer, a cent and a half on gasoline, increasing the inheritance tax from 10% to 15%, rooms and meals taxes, non-resident income taxes, legalized gambling, sweepstakes, business profits taxes and payroll taxes. We will continue to have "*government by crisis*", and we will continue to burden those least able to pay — for it has been established that those with the least amount of income are paying a greater percentage of their earnings for taxes than the more affluent.

I have been told that this amendment has about as much chance of surviving a plebiscite as "*a grasshopper in a hen-house*" (if you will pardon my quoting from Festus of "*Gun-smoke*" fame). I don't agree.

During the last special session, the Senate, by a vote of 16-8, passed this amendment. The House (feeling the revenue crunch) voted 209-143 to enact this amendment falling 30 votes short of the required 60% majority. It was indeed a very close vote and as I indicated then — that had the Governor given to this amendment the same attention he gave to another revenue proposal, the prestige of his office would have put it over the top — and it would have gone to the people for ratification. I

am indeed gratified that His Excellency has indicated his support for this amendment in his Inaugural Address and am especially pleased that he has vowed to take the issue to the people. Because of the Governor's pledge, I am optimistic as to the outcome (and I would like to say at this juncture) that I will be most proud to join with him in this most "*challenging adventure*."

For we "*must*" go into the towns and cities of our State and make our people understand that our present system of taxation is regressive, inequitable and unfair and make them realize that their basic needs are going unmet — their mentally handicapped child remains "*a human vegetable*"; their teen-aged son has a "*monkey-on-his-back*" and cannot shake him; their intellectually endowed daughter finds a good education beyond her reach; their small homestead subject to be sold for unpaid taxes; their rivers and streams and the air they breath polluted beyond redemption; and on — and on — and on.

Let us no longer remain silent — for as Dante said: "The hottest places in Hell are reserved for those who keep quiet in a time of crisis." Let us, in fact, become responsible and responsive — mindful of another section of our State Constitution Part I, Article 12 which says: "Every member of the community is bound to contribute *his* share towards the expense of government."

Sen. LAMONTAGNE: Mr. President, I rise in opposition to the CACR 5. The main reason why I am opposing this CACR 5 is due to the fact that I have heard no favorable opinions from my constituents. I am appearing here representing the people of the First District and those whom I have received correspondence from have expressed opposition to this referendum.

Sen. LEONARD: Mr. President, this has passed the Senate in previous years and I think it passed on the basis that it is a referendum matter for the people themselves to decide. I think that over the years my feeling is that the people are against broad-based taxes.

I agree with Sen. Spanos that taxation in New Hampshire is a big problem and will be with us for a long time. I am going to vote for this resolution because it goes to the people and the people should decide on this. I think that if we have adequate publicity we will get a fair reading of the people by put-

ting this on a ballot. If an individual senator is voting in the affirmative, it does not necessarily mean that he is in favor of broad-based taxes. I think that we should find out how the people feel.

Sen. FERDINANDO: I move that the CACR 5 be indefinitely postponed because I really feel the ultimate socialistic effect can take place as a result of this. I think that what we are trying to do here is imply an ambition to the individual and, in fact, we are, in essence, possibly rewarding failure and punishing success. I think we have a very healthy tax structure in New Hampshire and I think it is one we should try to preserve and keep it healthy and not to try to socialize by being deterrent, by discouraging people from wanting to be ambitious and being successful by trying to spread the wealth. Those that are willing to pay the price should be rewarded. For this reason, I am making a move to urge the fellow members to give us a consideration to make this CACR 5 indefinitely postponed.

Sen. NIXON: You are aware, are you not, that if we take an affirmative action on the proposal now before us, contrary to the intent of our motion, all we are doing is letting the people in the state themselves speak for this issue. We cannot pass a constitutional amendment. All we can do is place it on the ballot. Having that in mind, would you still be opposed to having a direct vote?

Sen. FERDINANDO: I am sort of expressing my own personal feelings. I am aware it will pass in the Senate. It has passed in the past and I am sure it will again today.

Sen. S. SMITH: Mr. President, I rise in opposition to the present motion and in favor of the Committee report and I would urge the members of the Senate to give the people of this state an opportunity to express themselves in regards to the tax proposal. As Sen. Spanos indicated, the Governor was favorable and was endorsing this measure.

Secondly, as I understand it, there was no opposition to this proposed constitutional amendment at the public hearing. I think that because of these reasons, and because of our tax situation presently in the State, I think the opportunity should be given to the voters to have a chance to vote on this during a referendum.

Motion lost.

Sen. MORRISSETTE: I would like to speak on the bill. I have decided to go along with this representation although I would like to make it clear I promised to dedicate myself to fight against any broad-based taxes. The people of my district, for one, can't afford any additional taxes. I would like to emphasize that nothing wrong is being done here in that we are giving the people the opportunity to decide. If there is a tax, should it be on the basis to pay or all on the same amount.

Committee Report Adopted.

Question: Shall the bill be read for a 3rd time?

Sen. Lamontagne requested a roll call, seconded by Sen. Ferdinando.

The following Senators voted in the affirmative: Poulsen, S. Smith, Snell, Townsend, Gardner, Jacobson, Spanos, Nixon, English, Leonard, Morrissette, Provost, Brown, Marcotte, Downing, Tufts, and Foley.

The following Senators voted in the negative: Lamontagne, Porter, and Ferdinando.

Adopted.

SUSPENSION OF THE RULES

Sen. Spanos moved 3rd reading and final passage at the present time.

Adopted.

THIRD READING

CACR 5, Relating To: Granting the legislature greater flexibility in raising public revenue through the power to tax, and Providing That: Property other than land may be classified by kind, use or amount and such classes taxed differently.

Division vote: 17 Yeas, 3 Nays.

Adopted.

Sen. Spanos moved reconsideration.

Motion Lost.

HOUSE MESSAGED BILLS
First, second reading and referral

HB 71, relative to authority of the coordinating board of advanced education and accreditation. (Education)

HB 84, relative to the deposit of funds with the state treasurer by the Fish and Game Department. (Executive Department)

HB 86, relative to special licenses for taking birds and animals. (Recreation and Development)

HB 99, relative to the power of McIntosh College, Inc. to grant degrees. (Education)

HB 122, to allow nonresidents to serve legal process on the Secretary of State as agent for foreign corporations. (Executive Department)

HOUSE MESSAGE

HCR 14, relating to Town Meeting day. Referred to Rules and Resolutions.

COMMITTEE REPORTS

HB 8

making correction in the laws relative to retail businesses. Ought to pass with amendment. Sen. Tufts for the Committee.

AMENDMENT

Amend section 1 of the bill by striking out the same and inserting in place thereof the following:

1 Memorial and Veterans Day. Amend RSA 578:5-a (supp) as inserted by 1967, 47:1 by striking out said section and inserting in place thereof the following: 578:5-a Retail Businesses. Closed on Memorial and Veterans Day. Any retail business that is required to be closed on Sunday under the provisions of this subdivision may not be opened for business on Memorial Day and Veterans Day until twelve noon.

Sen. TUFTS: The amendment appears on page 18 of your calendar. The amendment merely is the decision of the Committee to advance the opening hours on the holiday from 1

o'clock to 12 Noon. There was no opposition at our public hearing and the Committee took the evidence from the proponents that a 12 o'clock opening was a time when ceremonies and other activities of the day in that nature would be completed and that the 12 o'clock opening was therefore advanced from 1 o'clock.

If I might speak on the merits of the bill so that I won't have to rise and disturb you again, the bill merely corrects the statutes which we changed last time. Memorial Day and Veterans' Day are no longer necessarily observed on May 30 and November 11 so the law has changed. It will no longer read, "May 30 and November 11," but the law will say, "Memorial Day and Veterans' Day will be observed."

Amendment adopted.

Ordered to third reading.

HB 81

to reclassify certain sections of highway in the town of Meredith. Ought to pass. Sen. Poulsen for the Committee.

Sen. POULSEN: This bill is between the State Highway Department and the town of Meredith. There was no opposition to this report.

Adopted.

SB 43

providing that the state geologist need not be a faculty member of a New Hampshire college or university. Ought to pass. Sen. McCarthy for the Committee.

Sen. PORTER: SB 43 was brought in by Sen. Tufts on behalf of Commissioner Gilman in DRED to effectively change the qualifications of the state geologist so he would not be required to be a member of the faculty of the State University. There was no opposition to this bill. The hearing was held on the Fourth of February. Commissioner Gilman explained that in the event that there are requirements, he wants to have the geologist be full-time and not a member necessarily of a school. I hope you will agree with the Committee that it ought to pass.

Adopted.

ENROLLED BILLS REPORT

HB 44, to reclassify a certain section of highway in the town of Benton.

HB 45, to reclassify certain sections of highway in the town of Newmarket.

HB 88, to legalize the proceedings of the special meeting of the Pembroke school district held on July 28, 1970.

Sen. Provost
For the Committee

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on a third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until 11 o'clock tomorrow in honor of the astronauts of Apollo 14.

Adopted.

LATE SESSION

Third Reading and Final Passage

CACR 5, Relating To: Granting the legislature greater flexibility in raising public revenue through the power to tax, and Providing That: Property other than land may be classified by kind, use or amount and such classes taxed differently. (Under Suspension)

HB 8, making correction in the laws relative to retail businesses.

HB 81, to reclassify certain sections of highway in the town of Meredith.

SB 43, providing that the state geologist need not be a faculty member of a New Hampshire college or university.

Adopted.

Sen. Porter moved the Senate adjourn at 1:55 o'clock.

Adopted.

*Thursday**11 Feb 71*

The Senate met in joint convention at 11 o'clock.

RECESS.

The Senate reconvened at 1 o'clock.

A quorum was present.

Sen. Stephen Smith presiding.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 56, relative to the suspension of motor vehicle licenses of minors in possession of alcoholic beverages. (Porter of Dist. 12 — To Public Works and Transportation.)

SB 57, requiring hospitals to admit patients of any physician licensed to practice in the state. (Leonard of Dist. 13 — To Public Health, Welfare and State Institutions.)

SB 58, to prohibit any special justice or associate justice of a district court from practicing law in any district court. (Lamontagne of Dist. 1 — To Judiciary.)

SB 59, to require the parks department to reserve five percent of state campsites to state residents. (Ferdinando of Dist. 14 — To Resources and Environmental Control.)

COMMITTEE REPORTS

SB 36

relative to voting on zoning ordinance amendments at special town meetings. Ought to pass. Sen. Jacobson for the Committee.

Sen. POULSEN: This bill amends the zoning regulations by substituting the word "special" for "annual." As it is now, zoning regulations can be changed by petition at the town or municipality. Under this amendment, it could be changed any time that a special town meeting is called.

Adopted.

Ordered to third reading.

HB 36

establishing five o'clock as the closing hour for filings in all cases relative to elections.

Sen. JACOBSON: HB 36 was introduced at the request of the Secretary of State. In earlier legislation the closing hour for submitting documents relating to the electoral process was changed from 6:00 to 5:00 P.M. However, at that time, there were omissions with respect to some of the election laws, so that for some submissions the hour still remained at six o'clock. The intention of this bill is to make the closing hour uniform with respect to all our laws for the administration of elections.

Adopted.

Ordered to third reading.

HB 38

changing the due date for the payment of unclaimed pari-mutuel pool ticket money to the state treasurer. Ought to pass. Sen. Jacobson for the Committee.

Sen. JACOBSON: HB 38 was introduced at the request of the racing commission. At the present time the law states that all monies collected during the year of pari-mutuel pool tickets which have not been redeemed must be turned over to the state treasurer on the third Monday in December. This bill extends the time period to December 31st, thereby allowing the commission a further extension of time. This is the only change.

Adopted.

Ordered to third reading.

HB 54

legalizing the special town meeting held in the town of Newbury on May 23, 1970. Ought to pass. Sen. Jacobson for the Committee.

Sen. JACOBSON: HB 54 is a legalizing bill for the town of Newbury. On May 23rd of last year the town held a special meeting in order to vote on a sewer bond issue for the Croft Beach area. In attempting to fulfill the notice requirement, a technical error developed because of the day on which newspapers are issued in the area. The result was that the notice was two days short of the required time period. In order to satisfy all of the requirements of bond counsel this bill was introduced in order to alleviate any questions regarding the validity of the vote in the future.

Adopted.

Ordered to third reading.

ENROLLED BILLS REPORT

HB 81, to reclassify certain sections of highway in the town of Meredith.

Sen. Ferdinando
for the Committee

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until next Tuesday, February 16, 1971 at 1 o'clock and that it be in honor of Abraham Lincoln's Birthday, who was the first champion of the civil rights movement.

Adopted.

LATE SESSION

Third Reading and Final Passage

SB 36, relative to voting on zoning ordinance amendments at special town meetings.

HB 36, establishing five o'clock as the closing hour for filings in all cases relative to elections.

HB 38, changing the due date for the payment of unclaimed pari-mutuel pool ticket money to the state treasurer.

HB 54, legalizing the special town meeting held in the town of Newbury on May 23, 1970.

Adopted.

Sen. Bradshaw moved the Senate adjourn at 1:15 o'clock.
Adopted.

Tuesday
61Feb71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by guest Chaplain, Rev. Theodore Ball of the Piermont Congregational Church.

We hold our office, our Father, as representatives of the people of New Hampshire. Ours is an awesome responsibility and we pray for wisdom and integrity in the task of determining the laws that shall best serve our people.

We thank thee for thy wisdom which has manifested itself throughout the ages. May thy righteous concern for mankind find response in our hearts this week as we labor at our tasks.

Bear with us in our moments of uncertainty, and strengthen our wills against the temptations that pull at us from every side. Let us remember at all times that we are trusted servants of the people of our great State. Amen.

Pledge of Allegiance was led by Sen. Townsend.

LEAVES OF ABSENCE

Sen. Poulsen, the day, business.

Sen. Ferdinando, the week, business.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 60, relative to town liability for domestic animals harmed by dogs. (Koromilas of Dist. 21 — To Executive Departments, Municipal and County Governments.)

SB 61, relative to imposing sentences of commitment in criminal cases. (Koromilas of Dist. 21 — To Judiciary.)

SB 62, establishing statutory rights in lieu of dower and curtesy. (Koromilas of Dist. 21 — To Judiciary.)

SB 63, providing that experts involved in tests under implied consent statute are not required for court testimony un-

less prior notice is given. (Leonard of Dist. 13 — To Judiciary.)

SB 64, relative to the quantity and retention of the sample taken for the purposes of the implied consent law. (Leonard of Dist. 13 — To Judiciary.)

SB 65, providing that law enforcement officers shall be paid for time spent in court. (Leonard of Dist. 13 — To Executive Departments, Municipal and County Governments.)

SB 66, requiring persons engaged in the hunting of big game animals to display on their person a minimum amount of color known as hunter orange. (Porter of Dist. 12 — To Recreation and Development.)

SB 67, to permit a licensee forty-eight hours to present license and registration to law enforcement officials after a lawful request therefor. (Lamontagne of Dist. 1 — To Public Works and Transportation.)

SB 68, authorizing the election of tax assessors in towns. (Snell of Dist. 4 — To Executive Departments, Municipal and County Governments.)

SB 69, relative to hawkers and peddlers. (Jacobson of Dist. 7 — To Judiciary.)

SJR 6, directing the insurance commissioner to conduct a study of the motor vehicle insurance laws as they relate to senior citizens and servicemen. (Lamontagne of Dist. 1 — To Banks, Insurance and Claims.)

HOUSE MESSAGED BILLS

First, second reading & referral

HB 47, relative to traffic surveys and truck weight surveys. (Public Works and Transportation)

HB 80, to reduce the percentage of alcohol in the blood constituting prima facie evidence of intoxication. (Judiciary)

HB 96, legalizing the special town meeting in Jaffrey, November 3, 1970. (Executive)

HB 100, relative to enacting the uniform state feed bill and repealing the commercial feed law. (Recreation and Development)

HB 191, to amend the proposed charter of the city of Exeter to provide that five selectmen shall serve as councilmen at large. (Executive)

FURTHER MESSAGE FROM THE HOUSE
House Concurrence

HB 8, making correction in the laws relative to retail business.

COMMITTEE REPORTS

SB 35

eliminating certain duties of the secretary of state. Ought to pass. Sen. Jacobson for the Committee.

Sen. JACOBSON: This bill repeals a statute that reaches back to antiquity. In the eighteenth century, this Legislature was elected annually and met twice a year at various places throughout the state. It would meet in June and again in November. During the interim between the meeting in June and that in November, the Secretary of State was custodian of the papers of unfinished business until the Legislature met again in the Fall. What this bill does is to repeal a statute which is now totally outdated for over one hundred years.

Adopted.

Ordered to third reading.

SB 54

relative to the 1971 appropriation for the division of parks and providing for time and one half pay for overtime work by employees engaged in snow-farming. Ought to pass with amendment. Sen. R. Smith for the Committee.

AMENDMENT

Amend Paragraph II of section 2 of the bill by inserting after paragraph (b) the following new paragraphs:

(c) By striking out the line item:

“Major repairs =	\$45,000
------------------	----------

and inserting in place thereof the following:

(Major repairs =	\$50,000*
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(d) By inserting after the footnote marked "*" the following new footnote: **\$2,000 of this appropriation shall be used for repair and/or replacement of disposal facilities at Mt. Sunapee state park.

Sen. R. SMITH: The amendment was made necessary because of a breakdown of a motor at Franconia Notch. It consists of two items: \$3000 for the repair of the motor and a \$2000 item for a solution to the disposal problems on top of Mount Sunapee. They have been burning trash on top of the mountain and people have been complaining and I don't blame them.

Amendment adopted.

Ordered to third reading.

SB 31

relative to taking a motor vehicle without the owner's consent. Ought to pass. Sen. Leonard for the Committee.

Sen. LEONARD: I do not know who was supposed to report this bill. Sen. Nixon was the sponsor. He spoke for the bill. Tom Powers from the Highway Safety Bureau was for the bill. Kenneth Louis from the Motor Vehicle Department was for the bill. It takes the word "ride" out of the present law and makes the law easier to enforce.

Adopted.

Ordered to third reading.

CACR 6

Relating To: Voting Age and Qualification as to Age in Holding Office, and, Providing That: Eighteen Year Olds May Vote But No Person under Twenty-one years of Age may Hold any Elective Office. Ought to pass with amendment. Sen. Nixon for the Committee.

AMENDMENT

Amend section III of said concurrent resolution by striking out the same and inserting in place thereof the following new section:

III. Resolved, That the above amendments proposed to the Constitution be submitted to the qualified voters of the state at the presidential preference primary to be held in March 1972.

Sen. JACOBSON: CACR 6 is a proposed amendment to the people of New Hampshire to bring this state in conformity with the establishment of an eighteen year old vote in national elections so that eighteen year olds may also vote in state elections as well, but not to hold public office until the age of twenty-one. The amendment deals with the time when the people of this state shall vote for this proposed amendment. The original bill had it as the next general election which would be in November of 1972. This would complicate the voting procedure for both the primary in '72 and the general election in that eighteen year olds could come in and declare themselves as Republicans or Democrats in the primary and vote for Congress and United States Senator, however, they would not be able to vote for governor or any other state or local official. Similarly, if the November '72 date passes, they would not be able to vote in the general election for any state office. They would be able to vote for President of the United States, for United States Senator and for Congressman. The amendment proposes that the voting take place at the next Presidential Primary, which would be on the second Tuesday in March of 1972. This will, of course, necessitate a two ballot situation at this time, but the Committee felt that this was a least critical situation. We do not, at this time, know whether they will be, under the federal statute, allowed to vote in the Presidential Primary or not. This has not yet been decided but, in any event, they would not be able to vote for this amendment, which is a state issue, or for local elections in 1972, which would take place in the town meetings in '72. The amendment moves the date for the general election of '72 to the second Tuesday in March.

Sen. SPANOS: Mr. President, I rise in support of the Committee report "ought to pass with amendment."

The constitutional amendment which you are being asked to consider today would lower the voting age for state and local elections from 21 to 18 but perpetuates the age for holding office at 21 (with the exception of Governor, Governor's Councilor and State Senator which remains at 30.)

To many of you, this dual requirement appears to be a contradiction. I believe that it is. Personally, I see no major difference in voting judgments and leadership decisions. It is

my opinion that once we determine that the 18-year-old has the maturity and intelligence to cast a ballot, then it follows that the same maturity and intelligence deserves the right to lead.

However, during my service in the House and in the Senate (and particularly in the House), I have become a sort of pragmatist. I was witness to the manner in which our House counterparts buried a similar amendment two years ago, and I am not unaware of the skepticism of the people back home as to capability and potentiality of the teen-ager. It is my considered opinion therefore that the constitutional amendment before you (serving as a compromise) will be palatable enough for the House and the voters to support.

Mr. President, since the demise of the "18-year-old vote" constitutional amendment two years ago, there has been a very significant change in attitude in our country. Congress, fortified by a U. S. Supreme Court ruling, has enacted the Voting Rights Act Amendment of 1970 which lowered the age of voting from 21 to 18 for national elections. The Court struck down as unconstitutional the provision in that same legislation which would have reduced the age for voting in state and local elections, ruling that in this particular area, the states were supreme. And that is why this amendment is before you — to give to those 18 through 20, the right to vote in state and local elections.

May I say that some of the facts Congress considered in lowering the voting age for national elections are just as relevant to the issue before us. Here are some of their findings:

(1) The 18-year-old is generally considered by American laws mature enough to contract;

(2) Forty-nine states treat them as adults in the critically important matter of criminal responsibility;

(3) They are allowed to marry and in 39 states without parental consent;

(4) No state requires attendance at school after 18 years of age;

(5) That in 1900 only 6% of the 18-year-olds completed high school, where today the percentage stands at 81%;

(6) That the age of social and biological maturity has dropped by 3 years;

(7) That they make up a substantial portion of our labor force and pay many of our taxes;

(8) That the age of 21 is a throw-back on medieval days when military training required a physique adequate to bear heavy arms;

(9) That the experience of voting in Georgia since 1943 and Kentucky since 1955 has indicated a voting behavior that was intelligent and responsible causing Sen. Talmadge of Georgia to say: "Their performance has exceeded our greatest hopes and expectations."

(10) That because of a broader, more comprehensive education obtained in school and the availability of the communication media as a source of education, they are far more knowledgeable and concerned with life than were teen-agers of yesteryear. (Sen. Goldwater, Sen. Mansfield and Sen. Tydings so commented);

(11) They bear the responsibility of national defense — many sacrificing their lives to preserve the society which decides for them their fate.

There are a few other reasons for adopting this constitutional amendment:

(1) They are concerned about state and local issues as well as Viet Nam, civil rights, etc., and have evidenced this interest in their fight to control air, water and land pollution. They have shown us that they give a damn;

(2) Both state political parties and the party leadership support the enfranchisement of the 18-year-old. (This particular measure is co-sponsored by Sen. Stephen Smith, the Majority Leader);

(3) If the 18-year-old is limited only to vote in national elections, it will cause considerable confusion for election officials and it will be costly to the towns and cities and the state — what with separate ballots and 3 checklists; i.e. regular, 18-year-olds and voters entitled to vote for President only because of limited residency requirements.

But by far the most compelling reason for lowering the voting age is that American politics needs the blood transfusion that young voters can give it. Their idealism and their activism

(yes their very innocence) can serve as a source of strength to those of us who govern. It is essential that they find a genuine release within our established political framework. We must harness their angers, their hungers, their fears and their aspirations to constructive effort lest they become disenchanting and their frustrations take them elsewhere. They are not iconoclasts. The vast majority have a great faith in the democratic process and want to work within it. Let's not shut them out. They happen to be our hope for the future.

I might add, Mr. President, that it is my firm conviction that neither the Republican, Democratic or the American Party can play the role of the Pied Piper and automatically draw these young people into fold. Recent polls taken as to the registration behavior of 21 to 25 year-olds indicate that they tend to become Independents — the greatest showing ever. Support from these young adults will come only if the parties come up with issues which, and the candidates who, best reflect their views — a party to which they can identify. And this is as it should be.

Finally, at my suggestion the original constitutional amendment which I offered has been amended by the Judiciary Committee. The original resolution provided that ratification by the voters occur in the November, 1972 general election. This section of the measure has been amended to provide for ratification at the March, 1972 Presidential Primary. This will give the people of the state an opportunity to ratify in March, 1972 when all cities and towns are going to the polls, and if ratified, give these young people the privilege of voting for state and local officials as well as national officials in November, 1972. (And they may also vote in the state primary elections in September, 1972). This all can be accomplished with little cost to the state and our towns and cities.

I respectfully solicit your support for the Committee report.

Sen. LAMONTAGNE: Mr. President and members of the Senate. I have always stood up for what I believe. I definitely oppose the eighteen year old age for the state elections. The number one reason why I am opposed to it is that I feel that this is only lowering the age from 21 to 18 in paying taxes. Now, when it comes to marriages, for a male it is 20 years old and for a female 18. Another thing that the eighteen year olds

will be saying is now that we can vote, we want the drinking age lowered from 21 to 18 years.

Besides taxes that these young people are going to have to pay, there are other things that are going to be facing the State of New Hampshire. I would have liked to see the eighteen year old response in the federal election and see how this is going to work out. Remember, many of these people are very young. Some are mature in their thinking but many need supervision and personally, I hate to see a youngster become an adult at the age of 18. I think we are going about this too fast and I believe we should have given the federal law a chance to see how it was going to work and this is the reason why I want to be recorded in opposition.

Sen. S. SMITH: I rise in support of the Committee report and can only commend Sen. Spanos for the remarks he made. I think that in addition to what he said, and to bring it out just a bit more, is the fact that young people from 18 to 21 have gained and are gaining much more experience, much more education, much more ability to cope with life than we may have had at the age of 18. Traveling is easier, TV brings many problems of the world into the living room and my son, who is eleven, is much more aware of the problems that confront the world — Viet Nam. He is concerned about this much more so than I was in regards to World War II at the same age. I would hope that the Senate will look favorably upon the passage of this concurrent resolution.

There are some in the eighteen year old bracket who could use supervision but likewise, so are there some in the 21 plus bracket and I think that we must give the opportunity to these people who are concerned about the problems which face us. Thank you, Mr. President.

Sen. MORRISETTE: I would like to speak in favor of the bill. I would like to emphasize why I feel in favor of it. In the first place, I think we are long overdue in permitting the men of 18 to 20 the privilege of voting. I think voting is a matter of being knowledgeable, especially from the point of view of education and point of view of being able to study up on our qualifications of candidates. I would like to express that the second provision of this bill, relative to permitting the holding of office, is very important. In fact, I am very strong in my convictions that 18 year olds shouldn't hold office.

I feel that we and our youth and our forefathers were just as wise in wisdom and sense of responsibility. The only thing we had lacking was education which the modern youth have gained. The reason why I am against them holding office is because I feel that the majority of the youth pay very little taxes. I have yet to meet one that is conservative in thinking. You would have an over-emphasis of liberalism. The person can be 18 years old and be fully qualified to vote but not responsible. Wisdom is something you obtain through exposure through age. There is a big amount of wisdom you obtain between the ages of 18 and 21.

Again, I will say that I favor the motion. I think that there is no doubt in my mind that the youth can vote the same as they can go in the military service. There is a lot they have not yet obtained in the wisdom of the responsibility of holding office.

Sen. KOROMILAS: In article 28, and this is coming directly from the Constitutional Amendment Concurrent Resolution Number 6, five lines down, I see the words, "Every inhabitant of each town, and ward and places unincorporated, in this state, of eighteen years of age and upwards, except paupers, and persons excused from paying taxes at their own request." Could you explain what that means?

Sen. JACOBSON: I say it means there has been a classic method with respect to paupers and people who will not pay taxes. Apparently, if they don't want to pay taxes or take on the responsibility, I presume they will not vote. There has been a debate. I believe I saw in the newspaper the other day the Attorney General's Office has ruled on that.

Sen. SPANOS: Some years ago, that language in the Constitution bothered me a great deal. I was appalled at the fact that a pauper or those excused from paying taxes were not allowed to vote. I wrote to, at that time, Attorney General Wyman and he wrote back and said that a constitutional amendment would have to be required to change this section and strike the language. I kept following it up for some time and then what saved the day for us, more or less, is that the U. S. Supreme Court ruled that no person can be denied the right to vote merely because of his economic standing in the community.

Subsequently, I wrote Attorney General Pappagianas and asked him whether or not the supervisors of the check-list could

exclude these in the pauper category in the Constitution and he informed us that there was no possible way to exclude these men and they could, in fact, vote. Since that time, that has been the situation. It does raise the issue of clarifying the language in the Constitution itself. Maybe it could be stricken.

Sen. KOROMILAS: I think that with respect to SB 35 you stated that some of the language on the Secretary of State was completely old and no longer in use. Don't you think it is propitious at this time to eliminate some of these words.

Sen. JACOBSON: I would agree with you 100 percent.

Sen. ENGLISH: I would like to bring up a point. We are living in extremely rapid times of change. I think that the so-called generation gap is not always on the side of the older. I think that we can definitely learn a great deal from those who are younger and we should show them that we wish them to take a part in sharing the problems of changing times, and I think that this will be welcomed.

Sen. R. SMITH: Does the fact that we vote on this amendment at a Presidential Primary mean we preclude that independent lot of voters?

Sen. JACOBSON: No, we do not. All people will be entitled to vote for the constitutional amendment. All people in the cities and towns will be entitled to vote for their local officials and any other officials who are on the check list or who will be eligible. Therefore, no 18 year olds will be allowed to vote on the constitutional amendment or for the election of local officials.

The question whether that person 18, 19, or 20 years old may vote in the Presidential Primary has not yet been firmly decided but I understand that there is at least an off-the-cuff opinion from the Attorney General's Office that, in fact, this is a National election. If that becomes firm, then 18 years olds will be entitled to come and take either a Democratic or Republican or American Party; whatever party they want to belong to for the Presidential Primary. Any independent voter, which to me is a misnomer because there is no such thing as an independent voter, may come and take a party ballot if they want. They will be entitled to vote for the constitutional amendment.

Sen. KOROMILAS: I support the resolution with very grave resolutions. Unfortunately, I was ill when this particular

resolution was heard by the Senate Judiciary Committee. I am in favor, strongly in favor, of 18 years olds voting. At the same time, I have a great deal of respect for the senator from Manchester, Sen. Morrissette, but I differ with his views that every person who has a right to vote should have a right to hold office. I feel it puts the 18 year old in the second class citizen position. If he is given the right to vote, he can't sit in the Senate until he is thirty. I think the constitutional amendment does not go far enough. I think what I would have done would be to reduce the age for the Senate to 28 years.

In other words, a person could hold a position as a senator at 28 years and not at 30 because what good is it to allow a person to vote at 18 and have him wait until he is 30 and also, with respect to who can vote and who cannot sit in the House of Representatives. If you are going to give the 18 year old the right to vote, he should have the same rights as anyone else. If I were in a position to make a change, I know it is kind of late, I would reduce the age for becoming a state senator to 28 years and also with respect to the Governor's position and Councilor's position, also reduce that by two years in order to give this man who is now getting a vote, if the people so desire, the right to exercise leadership in our institution.

Amendment Adopted.

Ordered to third reading by division vote.

Yeas; 19

Nays; 1

PERSONAL PRIVILEGE

Sen. FOLEY: On Saturday — our pamphlet on Reports and Hearings came in the mail and it stated that at 2:30 today there is to be a joint hearing on HB 241 which would change the Business Profits Tax — change dates of payments to cities and towns and, in fact, decrease the amount to be paid to certain cities and towns.

We had no copy of this bill — in fact — it seems strange that any committee would be asked to hear evidence on a measure that committee members have never seen. And — in reverse — how can any person — Legislator or otherwise, plan testimony on simply the title of the bill? To add insult to injury, Monday was a holiday and no help to our problem.

It is my understanding that this bill will financially effect Portsmouth and this hearing held at this time makes it impossible for the City Council, City Manager, City Attorney or Mayor to prepare resolutions or pass any motions to bring before the joint Ways and Means Committee. Such pressure hearings are usually held the last week of the session when there is a "built-in" excuse for such emergency but we are far from June and July and I fail to understand this flagrant disregard of N. H. Citizens.

Now that this quickie has been disclosed there is a rumor that the hearing will be continued. But the fact that these unethical events continue to happen bears out the fact that no one learns from these errors by they continue to "try-try again."

These hurried hearings do little to enhance Public Relations between the state and cities and towns.

Sen. MORRISSETTE: I was recently misquoted by the radio and newspaper as favoring a graduated income tax. The Senate journal also said that I spoke in favor. Let me set the record straight that I oppose it with all my conviction, but felt that the people had a right to express their wish. I am hopeful that in the future that the journal will give more details regarding what we say on the floor in order that the people that we represent are properly informed. Simply stating that a person spoke in favor of a bill without mentioning anything else said is unjust and confusing.

Some people in my district are very mad but most of them are very sad and in a state of mourning since black Thursday Feb. 11, 1971. We are in mourning and do not know how to express our sorrow. Some have expressed that we should wear a black tie and I have mine here. Others say that we should fly our flags at half staff and I have mine here also. The best suggestion is that I should ask my colleagues in the Senate to tell me what would be the most honorable way to express our sorrow. Thank You.

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on a third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until 1 o'clock tomorrow.

Adopted.

LATE SESSION
Third Reading and Final Passage

CACR 6, Relating To: Voting Age and Qualification as to Age in Holding Office, and, Providing That: Eighteen Year Olds May Vote But No Person under Twenty-one years of Age may Hold any Elective Office.

Division vote — Yeas: 18 — Nays: 1.

Sen. Jacobson moved reconsideration.

Motion lost.

SB 35, eliminating certain duties of the secretary of state.

SB 54, relative to the 1971 appropriation for the division of parks and providing for time and one half pay for overtime work by employees engaged in snow-farming.

SB 31, relative to taking a motor vehicle without the owner's consent.

Adopted.

Sen. Foley moved the Senate adjourn at 2:10 o'clock.

Adopted.

Wednesday

17Feb71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain Rev. William L. Shafer.

O GOD, our Father, teach us to be good with that goodness of Thine that sends rain on the just and the unjust alike, and forgives us whenever we err and seek Thy mercy. Deliver us, Good LORD, from any temptation to make light of life's real issues, or to be overly concerned about pettiness or false pride. We pray that our righteousness may bring a blessing to others

in their need. May our goodness be of such an unobtrusive quality that we ourselves are not aware of it, yet its presence is clear to others. This we ask in the Name of Him who is the author of, and the example of, perfect goodness. Amen.

Pledge of Allegiance was led by Sen. English.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 70, to provide employees with a priority of claim for wages earned. (Koromilas of Dist. 21 — To Judiciary.)

SB 71, establishing a study committee to report on the feasibility of making available state owned recreational areas to exceptional or disadvantaged New Hampshire residents and making an appropriation therefore. (Snell of Dist. 4 — To Public Health, Welfare and State Institutions.)

SB 72, relative to the issuance of state notes. (Smith of Dist. 3 — To Executive Departments, Municipal and County Governments.)

HOUSE MESSAGED BILLS

First, second reading and referral

HB 83, relative to taking wild black bear. (Recreation and Development)

HB 87, relative to the penalty for guiding an unlicensed hunter. (Recreation and Development)

HB 136, to authorize use of fictitious names in certain proceedings in equity. (Judiciary)

COMMITTEE REPORTS

HB 6

relative to the power of Hesser College to grant degrees. Ought to pass with amendment. Sen. English for Education.

AMENDMENT

Amend section 1 of the bill by adding in line seven after the numeral "1973" the following: (the Standing Committees on Education of the Senate and the House of Representatives are

hereby established as an interim committee with the power to revoke this authorization upon recommendation of the Coordinating Board of Advanced Education and Accreditation and after a finding by the committee that such revocation is in the public interest.) so that said section as amended shall read as follows:

1 Hesser College. Amend section 1, chapter 508, Laws of 1967, as amended by 1969, 551:1 by striking out said section and inserting in place thereof the following: 508:1 Authority Granted. The Hesser College, formerly Hesser Business College, conducted by Hesser, Inc., an educational institution is hereby authorized to confer upon the graduates thereof the Degree of Associate in Business Science for the period from June 1, 1971 to June 30, 1973; the Standing Committee on Education of the Senate and the House of Representatives are hereby established as an interim committee with the power to revoke this authorization upon recommendation of the Coordinating Board of Advanced Education and Accreditation and after a finding by the committee that such revocation is in the public interest.

Sen. ENGLISH: Mr. Speaker, the three bills HB 6, 43, and 99, from the Education Committee this afternoon all have a distinct similarity. They are based upon the recommendation to the Legislature by the Coordinating Board with regard to granting of degrees by Hesser College, White Pines College and McIntosh College.

There was no opposition to these bills but an amendment was offered by the Coordinating Board which gave to the Board interim powers — without reference to the Legislature. The Board felt that if changes took place when the Legislature was not in session they could, if desirable, modify the approval granted.

The House so amended these bills but your Education Committee clarified the amendment by adding to the proviso that in the event that a change took place in the status of the colleges while the Legislature was not in session, the Coordinating Board would then bring this to the attention of the Joint House and Senate Education Committees. This is in line with the repeatedly stated desire on the part of the Legislature not to give away powers when there appeared to be no real need to do so. The Coordinating Board has indicated that it has no objection to the Senate amendment.

I may conclude by saying that it is unlikely that there would be any reason to make changes. This Senate amendment then is important only in maintaining a principle.

Sen. KOROMILAS: Sen. English, I note that McIntosh College is the subject of HB 99. Do you think that it is wise to delegate power to a standing committee of the House and Senate to make final determinations without agreement from the members of the Chamber?

Sen. ENGLISH: The senator's point has been considered. The alternative to the proposal that is made by the committee is that the Coordinating Board be given this power without reference to anybody. The proposal that the Senate Committee makes is that they go to a joint committee. The proposal that you suggest, which would be the most desirable, would mean assembling the entire Legislature in the interim to take up a matter which conservatively could be said to occur possibly, once in ten years. But if the Coordinating Board does take this up with Senate and House Education Committees, this is the branch of the Legislature which presumably is responsible.

The basic law as it concerns the Coordinating Board is to recommend to the Legislature. There has been a constant increase in their efforts to make the rulings, themselves, and I think that we could regard this proposal as somewhat of a compromise.

Sen. KOROMILAS: The Legislature does delegate power to committees, commissions and what have you and always has the power to override by legislation. It seems to me that under this particular provision that the Legislature doesn't even come into the picture. It just says until 1975 in the McIntosh College case, a joint committee could do what the Legislature has the power to do without referring it to the Legislature.

Sen. ENGLISH: You are learned in the law and I am not. I do not think we saw it in that light. In this particular case, you correctly state that in the printed bill — the time was raised from 1973 to 1975. If the Legislature is in session, according to the rules, the Coordinating Board recommends to the Legislature. It's what takes place in the period when we are not in session that is under discussion and let me say that I think this is important.

An instance when this might come into question would occur is most unlikely. You could have one of these colleges that have a period of two or four years to grant an Associate Degree. You could have a management change. The college could be sold and an outfit might take over the college and lower the standard so much that it would be undesirable to allow them to continue to grant an Associate Degree. If the circumstances were such that the Coordinating Board, having seen what was happening found it was undesirable for that college to continue to grant an Associate Degree, there is little or no reason to think your committees would decide otherwise. We would probably want to take a quick look after we would agree that the management is changed and the setup is altered to see if it would be undesirable for them to grant these degrees. This action should be taken because a Board is set up to advise the Legislature with the word "only" appearing making it clear that they are simply to advise. It seems that this is a workable arrangement.

Amendment adopted. Ordered to third reading.

HB 43

relative to the power of White Pines College to grant degrees. Ought to pass with amendment. Sen. English for Education.

AMENDMENT

Amend Section 1 of the bill by striking out in line eight the numeral "1973" and inserting in place thereof the numeral (1975) and by adding in line ten after the word "accreditation" the following; (the Standing Committee on Education of the Senate and the House of Representatives are hereby established as an interim committee with the power to revoke this authorization upon recommendation of the coordinating board of advanced education and accreditation and after a finding by the Committee that such revocation is in the public interest.) so that said section as amended shall read as follows:

1 White Pines College. Amend section 1, chapter 556, Laws of 1969, by striking out said section and inserting in place thereof the following: 556:1 Authority Granted. White Pines College, a voluntary corporation formed under the provisions of RSA 292 is hereby authorized and empowered to establish and maintain in the Town of Chester an institute of learning, to pre-

scribe the rules for the government of said college and the courses of studies therein and to confer upon the graduates thereof the Degree of Associate of Arts for the period from July 1, 1971 to June 30, 1975, provided that it receives the approval of the Coordinating Board of Advanced Education and Accreditation: the Standing Committee on Education of the Senate and the House of Representatives are hereby established as an interim committee with the power to revoke this authorization upon recommendation of the Coordinating Board of Advanced Education and Accreditation and after a finding by the committee that such revocation is in the public interest.

Amendment adopted. Ordered to third reading.

HB 99

relative to the power of McIntosh College, Inc. to grant degrees. Ought to pass with amendment. Sen. English for Education.

AMENDMENT

Amend section 1 of the bill by striking out in line six the numeral "1973" and inserting in place thereof the following (1975; the Standing Committees on Education of the Senate and the House of Representatives are hereby established as an interim committee with the power to revoke this authorization upon recommendation of the Coordinating Board of Advanced Education and Accreditation and after a finding by the committee that such revocation is in the public interest.) so that said section as amended shall read as follows:

1 McIntosh College, Inc. Amend section 1, chapter 472, Laws of 1965, as amended by 1939, 573:1 by striking out said section and inserting in place thereof the following: 472:1 Authority Granted. The college conducted by the McIntosh College, Inc., an educational institution, is hereby authorized to confer upon the graduates thereof the Degree of Associate in Business Science for the period from June 30, 1971 to June 30, 1975; the Standing Committees on Education of the Senate and the House of Representatives are hereby established as an interim committee with the power to revoke this authorization upon recommendation of the Coordinating Board of Advanced Education and Accreditation and after a finding by the committee that such revocation is in the public interest.

Amendment adopted. Ordered to third reading.

RECESS
ENROLLED BILLS REPORT

HB 36, establishing five o'clock as the closing hour for filings in all cases relative to elections.

HB 38, changing the due date for the payment of unclaimed pari-mutuel pool ticket money to the state treasurer.

HB 54, legalizing the special town meeting held in the Town of Newbury on May 23, 1970.

Sen. Provost
For the Committee

Report Accepted.

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock.

Adopted.

LATE SESSION
Third Reading and Final Passage

HB 6, relative to the power of Hesser College to grant degrees.

HB 43, relative to the power of White Pines College to grant degrees.

HB 99, relative to the power of McIntosh College, Inc. to grant degrees.

Adopted.

Sen. Koromilas moved the Senate adjourn at 1:25 o'clock.
Adopted.

Thursday

18Feb71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

ETERNAL GOD, in whom the mystery of existence is made known and is given meaning, we praise Thee for Thy life-giving word and health-giving truth. Too often the sour notes of life's music wins our attention while life's great melodies are crowded out by the sparkle of false values and self-serving philosophies. O Spirit of the Living God, come into our waiting hearts and direct us to those paths that lead to your harmonious presence. Help us to know that, in Thy Presence, fear becomes strength, worry becomes peace, loneliness becomes companionship, illness becomes health, hate becomes love, and doubt becomes knowledge. In the Spirit of Christ, strengthen us to respond to Thy prompting today in love and service to Thee and our fellow man. Amen.

Pledge of Allegiance was led by Sen. Lamontagne.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 73, defining and providing for the licensing and regulation of real estate brokers and salesmen; providing for the New Hampshire real estate commission defining its powers and duties; and imposing penalties for violations of this chapter. (Nixon of Dist. 9 — To Judiciary.)

SB 74, authorizing free hunting licenses to owners of one hundred or more acres of land who permit hunting thereon. (Townsend of Dist. 5 — To Recreation and Development.)

CACR 13, Relating to: The Origination of Revenue-Raising Bills. Providing that: Either the House or the Senate May Originate Revenue-Raising Bills. (Spanos of Dist. 8 — To Judiciary.)

SUSPENSION OF THE RULES

Sen. Tufts moved suspension of the rules regarding a report.

Adopted.

COMMITTEE REPORT

SB 55

validating the marriage of Joseph and Anita Poulin. Ought to pass with amendment. Sen. Tufts for Judiciary.

AMENDMENT

Amend the bill by striking out section 2 and inserting in place thereof the following section:

2 Effective Date. This act shall take effect upon passage.

Sen. TUFTS: This is a one page bill to legalize the marriage of two first cousins married to each other so that the family, which includes the parents and nine offspring, married in Canada where it is recognized, will be recognized by the State of New Hampshire so that these people may avail themselves of Social Security which they cannot do unless the State of New Hampshire acts. The Committee heard the testimony this morning and the sponsor, as you might imagine is Sen. Lamontagne, and we acted favorably upon the evidence before us.

Sen. NIXON: Isn't it true that the evidence brought out in the hearing is that not only Canada, but Maine and New York recognize first cousins to marry? If they had been married in either one of these states, it would carry through. Is that correct?

Sen. TUFTS: That is true.

Amendment adopted.

Ordered to third reading.

SUSPENSION OF THE RULES

Sen. JACOBSON: I move suspension of the rules with regard to the requirement of public notice and notice of Committee Report with respect to HB 191.

Adopted.

COMMITTEE REPORT

HB 191

to amend the proposed charter of the City of Exeter to provide that five Selectmen shall serve as Councilmen at Large. Ought to pass. Sen. Jacobson for Executive Department.

Sen. JACOBSON: Mr. President, the reason for the suspension of the rules is that if the bill is not passed today, it will lose its effectiveness. This bill deals only with the Town of Exeter and it provides for the referendum vote at this coming town meeting as to whether the citizens of Exeter wish to become a city.

The second portion of the bill deals with the transformation of the anticipated five member board of Selectmen into a five member Council at Large situation if the Town of Exeter should vote to become a city at the next town meeting.

Adopted.

Ordered to third reading.

Sen. TUFTS: I move that the bill be put on third reading and final passage at the present time.

Adopted.

THIRD READING OF HOUSE BILL

HB 191, to amend the proposed charter of the City of Exeter to provide that five Selectmen shall serve as Councilmen at Large.

Adopted.

PERSONAL PRIVILEGE

Sen. Nixon read the following letter to the Senate which was directed to Mr. William Loeb, President and Publisher of the Manchester Union Leader.

"On page two of your Wednesday, February 17th edition, your reporter, R. Warren Pease quotes me as having made the following statement:

'In order to get a program going, a man must first get elected. To get elected he must do whatever is necessary.'

I never made this statement, and I certainly do not subscribe to the belief that to get elected, a man must 'do whatever is necessary.'

You have done me a great wrong in incorrectly indicating that I would believe in such a philosophy."

Sen. SPANOS: Mr. President, last evening, as my family watched the "Bruins' Highlights," I did some catching up on my reading. That included 3 issues of the Concord Monitor and 2 issues of the Manchester Union Leader.

I was struck by the intemperate language of the latter as it related to the Chief Executive's announced position on his proposed 3% income tax. Words and terms such as "liar," "deceit," "spitting in the face," "impeachment" pervaded in print. It was steeped in vitriol and antipathy.

Then I read the editorial of 2-11-71 in the Monitor which was complimentary of the Governor's stratagem and oozed rationalization for his change of heart. One section therein caught my attention and it read substantially as follows:

"(Gov. Peterson's) business profits tax failed to produce anticipated income . . . (and) we failed to hear the forces of backward — march shriek with dismay when the states sweepstakes program fell on its face. That's because they backed it.

But that program was suppose to produce 4 million a year for education, and at last accounting it distributed less than \$900,000 to cities and towns to water down the increase in property taxes. Not a penny has improved the level of education in New Hampshire."

First of all, let me say that there were many who voted for the Sweepstakes program who cannot be characterized as "forces of backward-marches." I was one! I believe that the Monitor would indeed be embarrassed if it were to check the record and find out who, in fact, supported the program.

Secondly, I question the statement that "not a penny has improved the level of education in New Hampshire." Eleven million dollars back to the towns and cities has got to filter down to the educational process. But what if it hasn't helped education, who can thumb his nose at 11 million dollars to water down property taxes.

And finally (and a thought the Monitor excluded from its comment), the Sweepstakes did not repeal any existing tax base (stock-in-trade) and has not been responsible for a substantial deficit which haunts us today.

Now to the point I am driving at: A newspaper is a powerful instrument. It helps to shape opinion and decisions of the public. And because it can and does so influence — it is just as bad for a newspaper to *Love* as it is to *Hate* as in these bias presentations, the truth is clouded and the people the ultimate loser.

RECESS

ENROLLED BILLS REPORT

HB 191, to amend the proposed charter of the City of Exeter to provide that five Selectmen shall serve as Councilmen at Large.

Sen. Provost
For the Committee

HOUSE MESSAGES

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled bill sent down from the Senate:

HB 43, relative to the power of White Pines College to grant degrees.

and requests a Committee of Conference; the Speaker has appointed as members of said Committee of Conference on the part of the House of Representatives: Reps. Bowles, Greene, Lemieux.

On motion of Sen. English, the Senate voted to accede to the request for Committee of Conference.

The Chair appointed as members of said Committee on the part of the Senate, Senators English and Downing.

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled bill sent down from the Senate:

HB 99, relative to the power of McIntosh College, Inc. to grant degrees.

and requests a Committee of Conference; the Speaker has appointed as members of said Committee of Conference on the part of the House of Representatives: Reps. Bowles, Greene, Lemieux.

On motion of Sen. English, the Senate voted to accede to the request for Committee of Conference.

The Chair appointed as members of said Committee on the part of the Senate, Senators English and Downing.

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled bill sent down from the Senate:

HB 6, relative to the power of Hesser College to grant degrees.

and requests a Committee of Conference; the Speaker has appointed as members of said Committee of Conference on the part of the House of Representatives: Reps. Bowles, Greene, Lemieux.

On motion of Sen. English, the Senate voted to accede to the request for Committee of Conference.

The Chair appointed as members of said Committee on the part of the Senate, Senators English and Downing.

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until next Tuesday at 1 o'clock in honor of all our Marines (including Sergeant Jacobson) who participated in the Battle of Iwo Jima on February 19th — twenty-six years ago.

Adopted.

LATE SESSION

Third reading and final passage

SB 55, validating the marriage of Joseph and Anita Poulin.

HB 191, to amend the proposed charter of the City of Exeter to provide that five Selectmen shall serve as Councilmen at Large.

Adopted.

Sen. Koromilas moved the Senate adjourn at 1:58 o'clock.

Adopted.

*Tuesday**23Feb71*

The Senate met at 1 o'clock.

A quorum was present.

Sen. Stephen Smith of District 3 in the Chair, having been named by the President to perform all the duties of the President during this legislative day.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

ALMIGHTY GOD, we thank Thee for our native land and for all who follow in the steps of the father of our country. Strengthen and uphold all who weld together our people in the flame of righteousness. Match their fervency with compassion, their zeal with tenderness. Grant that all forms of discrimination disappear from our nation. Erase from our spirits all feelings of false pride, contempt, jealousy, or inferiority. As we have opportunity to work and play, to worship and study, to join in community endeavors with our neighbors, may we learn the value of respect and understanding. Establish in our nation that sense of brotherhood where suspicion and hatred cannot prevail and destroy our heritage of liberty and freedom. Grant that the spirit of Christ may keep our minds open, humble, and responsible. Amen.

The Pledge of Allegiance was led by Sen. Morrissette.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 75, to provide tax relief for towns and cities wherein the fish and game department has acquired taxable forest land. (Townsend of Dist. 5 — To Recreation and Development.)

SB 76, establishing a state science and technology office in the Office of the Governor, and making an appropriation therefor. (Snell of Dist. 4 — To Executive Departments, Municipal and County Governments.)

SJR 7, appropriating additional money for the Board of Accountancy. (Nixon of Dist. 9 — To Finance.)

CACR 15, Relating to: The Trial of Crimes. Providing that: District Courts may try crimes committed in a county other than the county where the Court sits. (Jacobson of Dist. 7 — To Judiciary.)

HOUSE MESSAGED BILLS

First, second reading and referral

HB 16, permitting charitable organizations to hold raffles. (Judiciary)

HB 49, relative to the unauthorized removal of national or state flags while they are on display. (Judiciary)

HB 137, relative to absentee voting by members of armed services. (Executive Dept.)

COMMITTEE REPORT

SB 6

providing that when highway work requires relocating municipally owned underground utility facilities the governmental agency doing the work shall pay for the trenching and backfilling. Ought to pass, Sen. R. Smith for Finance.

Sen. R. SMITH: SB 6 is in the same form as previously passed by this body and the title is self-explanatory.

Adopted.

Ordered to third reading.

SUSPENSION OF RULES

Sen. LAMONTAGNE: I move that SB 6 be put on third reading and final passage at the present time. The reason for this is that there is to be a hearing tomorrow and the bill should be in the possession of the House by that time.

Adopted.

THIRD READING OF SENATE BILL

SB 6, providing that when highway work requires relocating municipally owned underground utility facilities the governmental agency doing the work shall pay for the trenching and backfilling.

Adopted.

Sen. Lamontagne moved reconsideration.
Motion Lost.

COMMITTEE REPORT

HB 46

to reclassify a Class V highway in the Town of Sutton to a Class II highway. Ought to pass. Sen. Poulsen for Public Works.

Sen. POULSEN: This House Bill was introduced by Rep. Sherman and it has to do with underpass and road that was made necessary by the construction of Interstate 89. This was mistakenly classified as Class V. It should have been Class II all its life. This bill does nothing but straighten out the book-keeping.

Adopted.

Ordered to third reading.

PARLIAMENTARY INQUIRY

Sen. JACOBSON: Mr. President, may the Senate have a report from the Chairman of the Finance Committee respecting an action taken by said Committee based on the resolution adopted by the Senate on January 6, 1971 as found on page 18 of the *Journal*?

The CHAIR would state that nowhere in the resolution does he see any mention of a report being necessary to be made to the Senate, however, I am sure that all business of the Senate is public business and if any Senator wishes to discuss the matter with the Chairman of Senate Finance, I am sure he would be pleased to do so.

Sen. JACOBSON: I interpret your remarks to mean that a committee can take action to which it is not responsive to the Senate body.

The CHAIR: I do not think that the Chair stated any committee.

PERSONAL PRIVILEGE

Sen. JACOBSON: Mr. President, I recognize that I may well incur the displeasure of the leadership with my opposition to the action in question. However, I have as a valid principle

that no public money should be spent where its value is not fully justified. In all candor, I cannot see the wisdom of spending \$15,500 in the biennium on the basis of the vague delineation of responsibility enunciated. Our State, all acknowledge, is in a financial crisis. Every public dollar not spent is a dollar saved. The decision to spend under these circumstances must be based on the degree of priority in the context of need. In the present situation, there seems, to me at least, no sufficient justification for this action.

Furthermore, I have serious doubts as to the legitimacy of the action based on the resolution adopted by the Senate on January 6, 1971. In my view, such a broad interpretation of the resolution so as to include annual salaries has serious Tonkinic aspects. In this context, may I say that I have no objection to the President having an administrative aide on a sessional basis. I believe he can well use one. I believe also that such an action will be clearly consistent with the resolution of January 6.

I am opposed to the action of the Senate Finance Committee, and I want to be recorded as such.

PARLIAMENTARY INQUIRY

Sen. KOROMILAS: What would be required to change this resolution that does not give the Senate the final authority on the appointment of people for the use of the Senate?

The CHAIR: With no objection, I will defer the inquiry until tomorrow because of the nature of it.

Sen. LAMONTAGNE spoke on Personal Privilege regarding a hearing that was held on insurance rates.

RECESS

CHAIR: The Chair was asked to give an opinion relative to the adoption of resolutions of the Senate and the Chair, at this time, would like to state that a Senate resolution may be acted upon at any later date by the introduction of another Senate resolution and adoption shall be by a majority vote.

HOUSE MESSAGED BILL

First, second reading and referral

HB 241, increasing for one year the temporary borrowing limit of the State. (Finance)

PARLIAMENTARY INQUIRY

Sen. KOROMILAS: Regarding HB 241, has this been sent to Finance and not to the Ways and Means Committee?

CHAIR: That is correct.

Sen. LEONARD: Has HB 241 been heard by the Ways and Means Committee?

CHAIR: Yes. The Chairman of the Senate Ways and Means Committee and members have been asked whether or not they approve of it and there has been little objection.

Sen. KOROMILAS: Did the House, upon the passage of this amendment, refer the bill to the Committee on Appropriations?

CHAIR: No. The amendment was adopted from the floor.

Sen. SPANOS: I move that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock in honor of National Engineering Week and duly note that Sen. Porter of District 12 is a registered Professional Engineer in New Hampshire. (I think the only Professional Engineer in the Senate.)

Adopted.

LATE SESSION

Third reading and final passage

HB 46, to reclassify a Class V highway in the Town of Sutton to a Class II highway.

SB 6, providing that when highway work requires relocating municipally owned underground utility facilities the governmental agency doing the work shall pay for the trenching and backfilling. (Under Suspension)

Adopted.

Sen. Gardner moved the Senate adjourn at 3:04 o'clock.

Adopted.

*Wednesday**24Feb71*

The Senate met at 1 o'clock.

A quorum was present.

Sen. Stephen Smith of District 3 in the Chair, having been named by the President to perform all the duties of the President during this legislative day.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

O GOD — Father of our Lord Jesus Christ, who, in preparation for his holy mission, did fast for forty days and nights — begin and continue in us the same desire that was in Jesus Christ to learn and do Thy Will. Forbid that through indulgence of the flesh we should dim our vision of Thee and render ourselves unfit for Thy service. Give us grace to master our bodies and bring them into subjection to Thy good purpose for us. Teach us, by prayer and fasting, to win self-control, that we may count ourselves wholly to Thee and enter more and more into Thy blessed Kingdom. Enable us, this day, to build a better world because of His sacrificial love. Amen.

Pledge of Allegiance was led by Sen. Leonard.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 77, to provide for the widening of Willow street in Manchester from Union street to the Londonderry turnpike, and making an appropriation therefor. (Morrissette of Dist. 16 — To Public Works and Transportation.)

SB 78, relative to inventory of certain public properties and public utilities and notice of abandonment of service and making an appropriation therefor. (Tufts of Dist. 23 — To Executive Departments, Municipal and County Governments.)

SB 79, creating a legislative commission to study and make recommendations relative to the expenditure of state funds for higher education and making an appropriation therefor. (Jacobson of Dist. 7 — To Education.)

SB 80, providing veterinary medical education at Ohio State University for New Hampshire residents and making an appropriation therefor. (Snell of Dist. 4 — To Education.)

SJR 8, establishing a legislative committee to study the laws pertaining to motor vehicles and their operation and recommend revisions thereto. (Jacobson of Dist. 7 — To Judiciary.)

SJR 9, in favor of John Dukette of Andover. (Jacobson of Dist. 7 — To Public Works and Transportation.)

HOUSE MESSAGED BILLS

First, second reading and referral

HB 171, establishing the time of the annual public hearings relative to the powers and duties of the Fish and Game Department. (Recreation and Development)

HB 174, amending the charter of the Manchester Children's Home. (Public Health)

HB 106, to clarify the definition of subdivision. (Judiciary)

HB 126, extending the Good Samaritan Law to certain rescue and ambulance squads. (Judiciary)

COMMITTEE REPORTS

SB 48

providing that offices of member of the General Court and delegate to a Constitutional Convention are incompatible. Ought to pass. Sen. Jacobson for Judiciary.

Sen. JACOBSON: Mr. President, SB 48 deals with the question as delineated in the title. That is, it has, as its effort, to disallow present members of the General Court to serve at a Constitutional Convention; that is, at the time that it is called. It does not exclude former members of the House, who, at the time of the calling of the Constitutional Convention, are not members of the House or Senate. The intention here is to bring to bear an opportunity to other persons who are not involved in the General Court to come together to deliberate the Constitutional question.

Part of the reasoning behind this is that members of the General Court have that opportunity with respect to their

membership. Any Senator or Representative can introduce a proposed Constitutional Amendment at any time during the session of the General Court. In some respects, this is an effort to get some citizens not ordinarily involved in legislative positions and procedures the opportunity to participate in the order of government.

Sen. KOROMILAS: When is the next Constitutional Convention?

Sen. JACOBSON: Every ten years. The last one was in 1964 so it would be in 1974.

Sen. KOROMILAS: Can the Legislature ask the Constitutional Convention to convene prior to the ten year period?

Sen. JACOBSON: Yes, I believe that under special circumstances it can.

Sen. ENGLISH: Is the period of time in which the Constitutional Convention meets indicated in the bill?

Sen. JACOBSON: No, it does not deal with the time at all.

Sen. ENGLISH: In your opinion, should a time limit be indicated?

Sen. JACOBSON: This issue never came up but I believe an assembly can set its own rules.

Sen. KOROMILAS: I rise in support of the bill. My first experience with state politics was in 1964. When I came to the Senate in 1967, the people I met in the Constitutional Convention in 1964 were the same people that were here in 1967 and have been here since. I feel and I agree with the Committee Report that we should have people who are not politicians coming to conventions because it gives a new approach and a new dimension and I feel that this is one of the most important bills that will come before the Senate.

Sen. SPANOS: I would like to ask if this statute would be constitutional?

Sen. JACOBSON: This is a question that I cannot answer. It goes to the heart of whether any person who is qualified to vote is also qualified to hold public office. This would be a

public office. We do have, within the Constitution, certain basic restrictions.

My distinguished colleague and Chairman of the Judiciary Committee has pointed out we already have Constitutional incapability stated. It may be, in the end, that this might be a Constitutional question. I don't know that there is anything in the Constitution that denies it either.

Sen. TOWNSEND: I sponsored this bill and my original intention was that it would be a CACR resolution, however, in conference with Mr. Marx, who drafted the bill, he feels that it should be where we now have it under RSA:A2 and that is constitutional. I fully support this bill.

Adopted.

Ordered to third reading.

HB 42

providing that persons imprisoned for offenses against order and decency may be committed to a house of correction or to a county jail. Ought to pass. Sen. Nixon for Judiciary.

Sen. NIXON: Mr. President, this HB 42 was sponsored and introduced by Rep. Kimon Zachos, Chairman of the House Judiciary Committee at the request of James Connor, Hillsborough County attorney. Its purpose would be to permit the imprisonment of any persons convicted of any violations of Chapter 570, Section 30 in either the house of correction or in the county jail. It provides for an alternative place of imprisonment. The offenses involved in Chapter 570, Section 30 are generally described as "Offenses against Public Order and Decency," including "brawls, derisive words, obscenity, defacing buildings, discharging firearms, indecent exposure, obstructing highways, license to occupy portion of street, effect of license, obstructing access to highways, removal of obstruction; lien, driving on sidewalks, coasting, drunkenness, misconduct in public conveyance, prostitution, furnishing liquor to one receiving assistance, etc., purchasing from pauper, penalty, marathon dances, etc., smoking in public conveyances, vagabonds, giant crackers, bowling alleys, operation of boats while under influence of liquor or drugs."

All this does is to permit a person convicted to be imprisoned either in the house of correction or in the county jail.

The reason for this bill is that in some cases, as I understand it, the house of correction does not have enough room and they can't use the county jail. When certain crimes warrant stricter security arrangements, the county jail can provide this security more so that the house of correction.

Adopted.

Ordered to a third reading.

Sen. English moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock in honor of Mrs. Eva A. Spear who has been prominent in the State of New Hampshire and who has been writing short but vivid columns in the *Manchester Union Leader*.

Adopted.

LATE SESSION PARLIAMENTARY INQUIRY

Sen. KOROMILAS: Does the employment of this administrative assistant on an annual basis fall within the resolution offered yesterday or does it require the Senate approval?

The Chair would state that it does not fall within the realm of the resolution as is found on page 18 of the *Senate Journal*. It is also my understanding that the Senate Finance Committee is also considering this aspect of it.

Third Reading and Final Passage

SB 48, providing that offices of member of the General Court and delegate to a Constitutional Convention are incompatible.

HB 42, providing that persons imprisoned for offenses against order and decency may be committed to a house of correction or to a county jail.

Adopted.

Sen. Provost moved the Senate adjourn at 1:43 o'clock.

Adopted.

*Thursday**25Feb71*

The Senate met at 1 o'clock.

A quorum was present.

Sen. Stephen Smith of District 3 in the Chair, having been named by the President to perform all the duties of the President during this legislative day.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

IN NOMINE PATRIS, ET FILII, ET SPIRITUS SANGTI. Amen. Our Heavenly FATHER, we come together today to honor Thee through our legislative duties and responsibilities. Open our hands to Thee, the Guide of our lives. Open our eyes to Thee, the Light for our paths. Open our ears to Thee, the teacher of Divine Wisdom. Open our hearts to Thee, the inhabitant of the temple within us. Open our lives to Thee, the object of our mission. Thus, may we walk and not stumble. May we see and not forsake the true Way. May we hear and not turn from Thy holy Word. May we love Thee and welcome Thy Presence always. May we demonstrate to others Thy Truth and not detain Thy Kingdom from becoming a reality. Amen.

Pledge of Allegiance was led by Sen. Nixon.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 81, authorizing tests on the bodies of certain motor vehicle accident fatalities to determine the content of alcohol in their blood. (Snell of Dist. 4 — To Judiciary.)

SB 82, providing for the Australian and non-partison ballot systems in the same election. (Spanos of Dist. 8 — To Executive Departments, Municipal and County Governments.)

SB 83, making appropriations for an addition to Snively arena. (Snell of Dist. 4 & Sen. Foley Dist. 24 — To Finance.)

SB 84, establishing a legislative committee to study scenic preservation measures and to recommend legislation to imple-

ment the same and making an appropriation therefor. (Porter of Dist. 12 — To Resources and Environmental Control.)

SJR 10, in favor of the estates of Elaine and Hank Chapin. (Bradshaw of Dist 10, Spanos of Dist. 8 — To Finance.)

CACR 17, Relating to: Increasing the Membership of the Senate, Changing Senate Quorum Requirements, and Providing for Apportionment, and Providing that: The Membership of the Senate Shall be Increased to Thirty-six, Changing Senate Quorum Requirements, and Providing for Apportionment. (Spanos of Dist. 8 — To Judiciary.)

CACR 18, Relating to: How Often the Legislature Shall Meet. Providing that: The Legislature Shall Meet Annually. (English of Dist. 11; Smith of Dist. 3; Spanos of Dist. 8 — To Judiciary.)

CACR 19, Relating to: Adoption of Constitutional Amendments by a Majority of Voters. Providing that: Proposed Constitutional Amendments may be Approved by a Majority of the Voters Present and Voting on the Subject. (Townsend of Dist. 5 — To Judiciary.)

Sen. JACOBSON: Mr. President, I move that the order whereby HB 106 was referred to the Judiciary Committee be vacated and that it be referred instead to the Executive Depts., Municipal and County Governments.

Mr. President, this bill deals with planning measures which have traditionally and nominatively come under this committee instead of the Judiciary. I spoke with the Chairman of Judiciary and he had no opposition to the change. I spoke with the President of the Senate and he had no opposition to the change. I spoke with the Presiding Officer and he had no opposition to the change.

Sen. NIXON: I concur with the motion made by Sen. Jacobson.

Adopted.

HOUSE MESSAGED BILL

First, second reading and referral

HJR 8, relative to retirement credit for Herbert R. Hagstrom. (Finance)

ENROLLED BILLS REPORT

HB 8, making correction in the laws relating to retail businesses.

HB 46, to reclassify a class V highway in the town of Sutton to a class II highway.

HB 42, providing that persons imprisoned for offenses against order and decency may be committed to a house of correction or to a county jail.

Sen. Provost
For the Committee

COMMITTEE REPORTS

SB 40

relative to petitioning for articles to be placed in town warrant. Ought to pass. Sen. Poulsen for Executive.

Sen. JACOBSON: Mr. President, SB 40 deals with the right of petition with respect to town meetings and the placing of an article in the warrant therein.

If ten citizens of a town want to have an article in the warrant, they do so by signing a petition and presenting it to the Selectmen so many days before the annual meeting. Some problems have arisen in those towns which have a municipal finance budget committee where the budget committee meets beforehand and makes a decision. Then a petition comes in for an appropriation and the budget committee has decided not to meet. This has led to a restriction of the right to petition and what this bill does is to say that the right of petition shall not be denied by any statements or actions that are allowable under the Municipal Budget Act.

Adopted. Ordered to third reading.

SUSPENSION OF THE RULES

Sen. R. Smith moved suspension of the rules to allow a committee report not previously advertised in the Calendar.

Adopted.

COMMITTEE REPORT

HB 241

increasing for one year the temporary borrowing limit of the State. Ought to pass with amendment. Sen. R. Smith for Finance.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

changing the dates for return of revenue to cities and towns, and providing for reimbursement for interest costs.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Changing the Time for Return of Revenue to Cities and Towns. Amend RSA 31-A:5, II (supp) as inserted by 1970, 5:16 by striking out the first sentence of said paragraph and inserting in place thereof the following (In each year subsequent to 1970 the state treasurer shall pay over to each city or town the amount due to it in installments as follows: one half on July fifteenth, one quarter on September first and one quarter on December first; provided, that if a city or town has adopted or at any time adopts a fiscal year ending in June the state treasurer, starting with the year 1971 in the case of a city or town which has already adopted such a fiscal year and starting in the year in which the fiscal year change takes effect in the case of a city or town hereafter adopting such a fiscal year, and each year thereafter in both cases shall make payment in four equal installments, on March fifteenth, June fifteenth; September fifteenth and December fifteenth.) so that said paragraph as amended shall read as follows: II. In each year subsequent to 1970 the state treasurer shall pay over to each city or town the amount due to it in installments as follows: one half on July fifteenth, one quarter on September first and one quarter on December first; provided that if a city or town has adopted or at any time adopts a fiscal year ending in June the state treasurer, starting with the year 1971 in the case of a city or town which has already adopted such a fiscal year and starting in the year in which the fiscal year change takes effect in the case of a city or town hereafter adopting such a fiscal year, and each year thereafter in both cases shall make payment in four equal installments, on March fifteenth, June fifteenth, September fifteenth and December fifteenth. There is hereby appropriated for each fiscal year a sum sufficient to make the payments provided for by this section. The governor is authorized to draw

his warrant for the sums appropriated by this section out of any money in the treasury not otherwise appropriated.

2 Reimbursement for Interest Costs. In 1971, in the cases of those cities and towns, payment to which has been delayed by the effect of section 1 of this act to July 15, 1971, the state treasurer shall pay to such cities and towns reimbursement for the cost of borrowing funds in lieu of the payments that would have been received March 1, 1971 and June 1, 1971. The treasurer shall compute the reimbursement by determining for each such city and town the cost of borrowing the amount of such payments from March 1 to July 15, and June 1 to July 15, respectively, using an interest rate of 3% per annum. The reimbursement provided in this section shall be paid on July 15, 1971. There is hereby appropriated a sum sufficient to make the payments provided for by this section. The Governor is authorized to draw his warrant for the sums appropriated by this section out of any money in the treasury not otherwise appropriated.

3 Effective Date. This act shall take effect upon its passage.

Sen. R. SMITH: Mr. President, I will try to explain the amendments and also the action taken by the Finance Committee this morning. I think perhaps all of you are familiar at this point with HB 241 and a problem in the action taken by the House on an earlier day of this week.

The bill, as reported out by the House Ways and Means Committee, called for a roll back on the payments to the cities and towns in lieu of the stock and trade taxes. Under the Business Profits Tax, the bill was amended on the floor of the House and came to us in a different form. The bill, as it came to us, provided for an additional \$10 million short-term borrowing authority for the State Treasurer and kept the payments in the same order as originally prescribed in the business profits legislation.

The Finance Committee held a hearing this morning on HB 241 and took executive action. The bill has been amended and the amendment is in two forms. Part of the amendment is on page 33 of today's Calendar. What this amendment does is to restore the bill to a similar version passed by the Ways and Means Committee of the House. It does provide for a roll back of payments to cities and towns. It provides that 50 percent of

the payments be made on July 15 and another quarterly payment made September 1 and the final quarterly payment made on December 1.

I hesitate now in making more remarks to say we felt this way or that way because there was some difference in opinion in the Committee. I will try to explain the feeling of the Committee. This section that is in the appendix which calls for the roll back has been put back into the bill in order to get the payments into the same fiscal year that the money was collected.

The bill, as it exists now, means that this State would start off the next biennium with an approximate deficit of \$20 million rather than \$10 million. We feel that it is necessary in order to put the State's fiscal ship in order to call for the roll back as prescribed in here. There was some objection from the cities and towns who have to borrow money in anticipation of taxes and who have planned on the payments called for in March and June. The bill has been further amended to provide that the State incur the cost of interest incurred by cities and towns that have to borrow as a result of not receiving their projected payment in March and June.

The cities of Laconia and Portsmouth and the Town of Hudson, which I understand are on a fiscal year similar to ours, are covered in the amendment in that they will still continue to receive their payments as they have anticipated. I hope I will be able to answer any questions you may have. It has been a confusing day.

Sen. KOROMILAS: Sen. Smith, looking at the appendix of the yellow book that we received this morning, is the substance appearing on page 33 pertaining to HB 241 the same as the one that was proposed this morning by Sen. Lamprey?

Sen. R. SMITH: It is my belief that the substance is the same.

Sen. KOROMILAS: Are we, at the present time, considering the amendment as it appears in the appendix on page 33 or are we talking about both amendments.

Sen. R. SMITH: We are considering one amendment but the substance of two amendments.

PARLIAMENTARY INQUIRY

Sen. KOROMILAS: We have one amendment in the *Journal* and one amendment brought in by the Committee today. My question is can we take these up at the same time?

The CHAIR would state that a committee in deliberation adopted the amendment found on page 33 of the Calendar and also the amendment relative to the 3 percent payment to the towns. The Committee reports encompass both amendments. We will discuss both items as one report of the Committee.

Sen. KOROMILAS: Can one divide the question with respect to the amendment at the present time?

The CHAIR would state that we are acting only on one amendment as offered by the Committee, therefore, a vote will be taken as if it were one amendment.

Sen. JACOBSON: Is it not true in Parliamentary Procedure that an amendment may be offered which would divide the question?

The CHAIR would state that the amendment was offered by the Committee as one amendment to be voted upon unless it is defeated by the members of the Senate.

Sen. JACOBSON: Mr. President, I appeal the ruling of the Chair.

The CHAIR would cite Rule X that it is proper procedure to offer an amendment to divide the question.

Sen. JACOBSON: I withdraw the appeal.

Sen. LAMONTAGNE: Mr. President and Members of the Senate, I rise in support of the amendment to HB 241. Right at this time I feel that politics should be put aside. \$10 million is facing us to reimburse cities and towns for the stock-in-trade tax and machinery that has been abolished by the Business Profits Tax. It is my understanding that the cities and towns would be hurt only to the extent of the interest that would have to be borrowed and this has now been provided for in the amendment. Another reason I support the amendment is because cities borrow funds on expected revenue from the stock in trade tax, machinery and poultry after March 1, and speaking about the city of Berlin as I served as Mayor, we borrowed and

then paid the loan after July 1st, after some of the taxes had been collected.

Sen. JACOBSON: Sen. Smith, I have a concern about the second part of the amendment. This says that it will reimburse the towns for their cost of borrowing in lieu of payment that would have been received between March 1 and June 1, 1971. My concern was that my study with the Legislative Study Committee showed a number of cities and towns actually borrowed in January, February and March and put it in the bank and earned interest. Are we going to pay their interest costs so that they will get a total return or are they going to give the difference between what they earn and what it costs them?

Sen. R. SMITH: Cities and towns will be reimbursed interest with 3 percent interest on the money that they would have to borrow in March or June at the time of payment.

Sen. JACOBSON: So the net result would actually occur a windfall for some cities and towns?

Sen. R. SMITH: The net result would be a windfall to some cities and towns. However, we had no cities and towns that appeared at our hearing claiming a windfall in any instance.

Sen. JACOBSON: I am concerned about the legality of our procedure and your asking for suspension of the rules in regard to Committee Report. Our Senate rules require a two day hearing notice. Did you have a two day hearing notice?

Sen. R. SMITH: Yes. It was advertised two days in the *Journal*.

Sen. SPANOS: Mr. President, I rise in opposition to the Committee Report and in favor of the original version as passed by the House of Representatives which calls for no roll back whatsoever and would borrow \$10 million to meet our contract with the people back home.

I would like to say that in opposition to this amendment, I am not opposing the second section of the amendment which has to do with reimbursing the towns for their interest costs. As a matter of fact, I suggested that to the Finance committee myself.

I feel that would be a far more palatable amendment to offer than the bill as was presented to us by the Administrative

Assistant. Even then there are some problems as I see them in the version as currently amended. It does not take into consideration that the towns and cities are going to have to pay some legal fees when they go out to borrow this money. They are also going to have to pay some bank charges. When they go out and borrow the money, it will take in the vicinity of fifteen days or so to actually process the borrowing operation before they get the money from a lending institution and then there is some question in my mind as to whether or not it is very possible that many of the communities may have already reached the pinnacle saturation point as to their own borrowing capacity under the law.

There was no testimony to that effect, but I do know from my own observation that many of the communities have borrowed considerable monies. I think the thing that bothers me the most of all is that, in the presentation of the Business Profits Tax to the towns and cities, to the mayors, to the members of the House of Representatives and to the members of the Senate, the issue of the quarterly payments was in fact laid out in front of all of them and many of the towns and cities knew, in fact, that there was, within the drafting of the statute, a windfall, so to speak, that they knew they were going to be packing up a couple extra quarters of payments in advance of the actual anticipated revenues', picking up a couple of windfall months or quarters which they knew eventually would never be caught up. The State could never catch up with those two advance payments. They would be getting funds in advance and because of our State, goes on ad infinitum. The State could never get the money back from those towns and cities.

This was a selling point to the mayors and to the Legislators of our State. There are many astute municipal administrators who saw, within the presentation as offered by those preparing the Business Profits Tax, a definite windfall. That, as I said, was used as a selling point to pass the Business Profits Tax.

I know each and everyone of you are well aware that we had mayors' delegations in the Governor's office; we had representatives in there — all concerned about what this meant to their towns and cities. This bothers me most of all.

A glorious picture of the Business Profits Tax was painted to all our representatives and it has failed and now we are

asked to renege on that promise made to the towns and cities and this is where I differ with the administration and those who support this measure.

The Chief Executive, for better or worse, has an obvious credibility gap facing him in this state and it is my opinion that I don't believe that the General Court should follow suit. The House did not follow suit. It did not vote to renege on the promise of making these quarterly payments.

I say that if we don't keep faith with those people, we diminish the democratic process to some degree. I think we have to meet our promises even if we have to melt down the golden dome.

PARLIAMENTARY INQUIRY

Sen. KOROMILAS: Is this the proper time to enter an amendment to divide the question?

The CHAIR would state that this is not the proper time as the motion is on the adoption of the Committee Report.

Sen. JACOBSON: Mr. President, I rise in support of the Committee Report. I do so by the same solid principle with which I opposed the Senate Finance Committee's action on Tuesday last. That is that the weight of the evidence demonstrates that this amendment is in the public interest. Taking into account all political subdivisions under which our citizens must support financially, the total public saving, both in terms of money and program, lie with the roll back procedure. Now, the situation that has created the question under discussion is the financial dislocation which exists because towns and cities and municipalities, except for a few exceptions, operate fiscally on the calendar year while the state operates on the July 1-June 30 fiscal year. This dislocation is intensified by the fact that school districts are on the fiscal year and cost municipalities between 70 to 80% of every tax dollar collected. The result is the necessity to borrow heavily in anticipation of taxes.

As a member of the Legislative Study Committee, I made a study of borrowing in anticipation of taxes. I am not going to read it all, but I would like to give to the members of the Senate some of the pertinent information. First of all, the heaviest borrowing takes place in the period between May and October.

During this period, 86.5 percent of all borrowing in anticipation of taxes takes place. This means that only about 131½ percent of borrowing takes place before May first so that if you count March and April, you are probably down to somewhere around 9 to 10 percent at this moment of the cities and towns that borrow, and as I indicated in my question to the Chairman of the Finance Committee, there are some cities and towns which borrow immediately at the first of the year and put their money in a savings bank or in 90 day treasury notes or other forms of financial paper and they return an interest. Therefore, I have a certain question with regards to the second portion of the amendment whether or not there should not be an additional amendment which would limit this to the actual cost of the difference between investment and borrowing.

Now, I made a quick study of 50 of these towns. I have them all here for you to go through if you wish. Of these 50 towns, 34 borrowed between January first and July first. Of these, there were two borrowings in January, three borrowings in February and six borrowings in March. Then it increased to 12 in April, 12 in May and 19 in June. Some cities make multiple borrowings; they will borrow in March and again in June. Therefore, the figures are greater than 34. What this means in effect is that if we adopt the roll back procedure, it is possible for cities and towns to postpone their borrowing in some instances particularly if they are planning some kind of extraordinary expense to postpone that to the first of July.

However, the one thing they cannot postpone is the course instructional costs which come due before June 30 on the fiscal year from July 1 of last year to June 30 of this year. This they cannot postpone. I do not know the difference in this. In the end, with the second amendment coming in, that cost will be minimal since they have in fact already budgeted for this amendment in their town meetings and calendar budgets during calendar year 1970. In the end, I find that the cost would be minimal especially with the interest cost paid to it.

Now one of the best features of this amendment is what I call the "fiscal year feature" in which the four quarterly payments will be continued for those cities and towns that go on the fiscal year. At the present time, only cities and towns of 10,000 or more can adopt this procedure, but my report to the Legislative Study Committee recommended that this may be made permissive for

all cities and towns and not just those of 10,000 or more. My recommendation was adopted by a Legislative study committee and a bill is now being drafted which will make this a permissive statute so that any city and town paying on the fiscal year thereby ultimately reducing in the end the problem of borrowing in anticipation of taxes. Therefore, I believe that the Senate ought to adopt this amendment because in the end it is the most economical measure as far as I can see.

Sen. FERDINANDO: I speak in favor of the Committee Report. The State obviously is in enough of a deficit at this time. To pass the House version, the increasing deficit of \$10 million would almost make it inevitable to have an Income Tax to face our problems here during the coming biennium. This is the reason I am in favor of the Committee Report not to add a further burden to the State of New Hampshire at this time.

Sen. MORRISSETTE: I would like to speak in opposition to the report. I have attended three hearings and I am almost sick to my stomach. The real issue here is a major one. One of them is not the interest that this amendment will pay back. In fact, no one here will oppose this amendment here. It is the money that the cities and towns will lose forever.

Now, you can try to call black white all you want. The fact is still there. I challenge my friend from District One if he would be willing to work for me for the next three months and continue working for the rest of his life in the understanding that his payments would be three months back. The first three months will never get paid.

The cities and towns will be deprived of their money forever. I feel very sincerely that is the real issue — the real reason why our leaders want that.

The second thing I would like to bring out is I think it is a sorry state of affairs when we work so hard to tear our Governor apart, destroy the faith of the people, and we Legislators here destroy our reputation for being Indian givers and divide the State. People are very confused and I think this issue will divide us even further. It is pretty difficult to really establish the cost of a divided State.

You hear a lot of political "hogwash." That would be one of the reasons for this move; that we may look better in that

we can say we lose \$4 million this year instead of \$14 million. If we have lost \$14 million because some people didn't pay their share of taxes, and this is really what happened, we simply have to amend our revenue structure amendment, our Business Profits Tax and go after the people that have not paid their share.

Who paid what is a secret. I would like to know that secret. I would like to know what some of these companies have paid comparing to what they paid in Stock in Trade Taxes. I wish this was information we would have. I understand it is not available.

I understand the State has the money to pay the first payment coming up. They have it and the reason why they don't want to make that first payment is because they know it wouldn't come back. That is a very important point there.

As far as the State facing a greater deficit I don't think that that is the fact at all. Whatever deficit there is, there is. Regardless of this bill, we are in the red by so much because the money didn't come through. Our taxation program wasn't adequate; this will not make any difference. The State will have to borrow this money temporarily until we can go back and correct what we did wrong a couple of years ago either by reinstating, as I have suggested, the Stock in Trade Tax with a 50 percent exemption and makes allowances for the businesses that were being unjustly used in the past. It wasn't a bad tax.

I feel very disturbed and the biggest single reason, I will repeat, is because of dividing our people. In money that is greater than petty discussion regarding interest where a state could pay the interest, it is a smaller amount. The state can borrow money at a smaller percentage than the cities but it is dividing our people. That is really wrong — dead wrong.

Sen. GARDNER: In committee, I voted for the bill as it came from the House. In the original bill as printed, the tax rate of Laconia would have been raised \$3.05.

At the House hearing, Laconia, Hudson and Portsmouth were promised the original bill would contain an amendment to exclude them. This was not done.

However, this morning at the hearing an amendment was presented to the committee that took care of this. To make it

more palatable for the cities and towns whose payments would be changed, another amendment was presented to pay the interest on the money these communities would have to borrow at 3%. I do not think it is good legislative procedure to hold legislation back until it is necessary to act immediately with no chance for other legislators to study it.

I am sure some Senators and House members were made aware of the proposed amendments before the committee hearing this morning. I feel it is time more accurate estimates of revenue be presented before the people are sold a "Bill of Goods." This has happened several times in the past few sessions.

For these reasons I am supporting HB 241 as it came from the House. I still consider I am just as sincere a Republican as any member here. I do not believe in renegeing on promises to the people by the State or either of the respected political parties of the State.

PARLIAMENTARY INQUIRY

Sen. FOLEY: When was the proper time to offer an amendment to divide the question and when did we pass that time?

The CHAIR would state that it is at the disposition of the Committee Report.

Sen. KOROMILAS: Could you tell the Senate that if this bill was to pass, it would cost the State roughly \$75 thousand to reimburse the cities and towns for their interest? Could you tell the Senate how much this bill is going to cost the State because Laconia, Portsmouth, and Hudson are going to get their full share?

Sen. R. SMITH: I think the figure is approximately \$500 thousand.

Sen. KOROMILAS: \$500 thousand plus \$75 thousand?

Sen. R. SMITH: \$500 thousand. The \$75 thousand would not be a part of the \$500 thousand.

Sen. KOROMILAS: I rise in opposition to the pending Committee Report. I think that Mr. Tobin of Manchester, who testified before your Committee this morning went to first principle, and very well pointed out the problem. He said the right

to tax Stock in Trade and Machinery Taxes were taking away these powers; were taking away from the cities and towns and in return, we are going to reimburse you for the powers we have taken away so you can tax your machinery and your stock in trade. I think these are the first principles that we have to realize.

I remember in the Special Session when I made a motion in this body to refer the Profits Tax Bill to Finance. I moved that this bill be sent to Finance so that they could take a look to see if the money could or would be there. Therefore, the bill never was referred to Finance and here we are.

I ought to say that like most people here, no one has any problem with the second portion of the amendment and I want to congratulate Rep. Drew who, before this Committee, came up with the concept of underwriting the cost of interest to cities and towns. It is unusual for a man like Rep. Drew who did come up with the idea and have it drafted so readily. At the same time, as I read in the newspaper, the Governor's Office is getting \$249 thousand in appropriations and were not able to come up with this simple idea that Rep. Drew came up with. I want to commend Rep. Drew. I think he has done the cities and towns an excellent service.

Sen. SNELL: It was my earnest hope when I was sworn in as a Senator that I would find members of our General Court, when called upon to vote, putting aside matters of personal consideration, pride, and even party affiliation when necessary, in order that each bill would be considered in the light of its worth to our state, never judged solely by its author, or on a partisan basis.

I may have been naive in this — but it remains my hope and expectation. It is vital if our great Granite State is to progress and prosper; if its lawmakers are to do their best for the people they represent.

Sen. McCARTHY: I feel a very strong obligation to express the views of my constituents on this matter. I am sure that my constituents feel that the effort of the State to renege is bad government. I have heard it alleged that only a certain minority dramatizes this credibility gap. This is not the case in the City of Manchester. I think that Sen. Morrisette is correct when he speaks on this matter.

Credibility is germane to this issue and juggling the books is bad government. People's lack of confidence in their elected officials is the most important matter in this issue. I, too, think that juggling the books postpones the inevitable. I have heard the argument here that any effort to postpone would inevitably lead to Income Taxes. As far as I have been able to find out, we already have to have definite proposals from the Executive branch.

Many new members of the Legislature and Senate came up with their own ideas about how things are going to operate. I tried my best to come up here with an open mind. In the past months, we are forever patching up. We really don't know what is happening or we are not presented with the whole facts at all. As a Freshman Senator, I am a little bit dismayed at the way we are going about this. I am in opposition to changing the dates; the quarterly payments. Like all members, I am sure we will approve the second part of the amendment but I am definitely opposed to changing from the four quarterly payments onto the next fiscal year.

Sen. DOWNING: I move that we indefinitely postpone further consideration of this matter. My reasons for this are as follows. I attended the Finance hearing this morning and I find that there was considerable division within the committee. No matter should be acted upon when there is such division. First of all, I would like to make it very clear that the money is available now. If we do nothing, the money is available to pay the cities and towns. Let nobody think that we are doing the cities and towns a favor by acting on this at this time; the cities and towns do not need this, as they are protected by current law. All we are doing by acting on this is incurring another \$75 thousand debt. If we take this as amended, we are going to pay the interest. The cities and towns do not need anything to do with the action as recommended by the Committee. We are going to save ourselves \$75 thousand if we do not act favorably on this.

Sen. TOWNSEND: I rise in opposition to the motion and in support of the Committee Report. I would like, at this time, to commend the Chairman of Finance on his excellent presentation and I would like to add also this amendment. This first part of this amendment I did not find too much to my liking

when it first appeared. However, with the second part added to it, I find it entirely palatable for the simple reason I agree with those who say we have an obligation to the towns and cities who have prepared their budgets on the presumption that these payments would be coming in as the law originally called for.

In the hearing this morning, Executive Director of the New Hampshire municipal association, Mr. Mann, registered his opposition to the bill as we are proposing to amend it. However, when I questioned him on his attitude toward it if we adopted the second part of this amendment, he said that they could accept it.

For these reasons I am going along with it also.

Sen. NIXON: Mr. President, I rise in opposition to the pending motion to indefinite postponement and in support of the Committee Report as presented by the Chairman of the Committee on Finance.

I think there are considerations we should have in mind to face this whole issue and I am regretful that it has become such an issue, particularly an issue in proper perspective.

In the first sense, let us recall the Business Profits Tax which was based on the essential principle of ability to pay and involved the repayment to cities and towns for what they would lose by reason of the taxes repealed in that bill. Repayment has been made for the year 1970 on December 15 with a premium of 10 percent. The commitment was honored and honored in full.

The bill now before us proposes not to limit, to cut down or subtract from the repayment obligation by one penny to any city and town. What it does do is recognize that insufficient monies were appropriated in the special session budget for fiscal year 1971 to permit the repayment to towns and cities of the full amount due to them in 1970 and half of the amount due to them in 1971 in the fiscal year ending June 30, 1971. If they were still relying on the repeal taxes for revenues, they would not get them until the end of 1971.

Instead of getting the payments in March, (the two first quarterly payments) they will get them in July. Then the next fiscal year begins. They will be delayed, but they will still be

up to six months earlier than they otherwise would have had revenue with respect to the same period. There may be some towns and cities who will have to borrow money by reason of not getting the payments, the two first quarterly payments, until July 15 and that is why the second part of the amendment has been introduced and should be adopted. To the extent any town has to borrow and pay interest by reason of that delay, having depended on the two quarterly payments in the schedule; they will be reimbursed by the State. The State will keep its word and no town or city will lose money.

At the same time, we will be able to avoid, as Sen. Fedli-
nando pointed out, the increased expectation of having to finance or raise another twelve million dollars in revenue by some source other than those now available to us for the period in question.

I would like to say if you are honestly opposed to a broad-based tax, you could support the present committee report and oppose the pending motion. In conclusion, the gold dome on the State House, which, as I recall it, appeared during a Democratic administration, need not be melted down because the money will be paid to the towns and cities as pledged and they will be repaid anything it would otherwise cost them by reason of not getting it up to two or three months earlier. It is for these reasons I support the committee report.

Sen. DOWNING: Is the Senator aware that the money is, in fact, available to pay the cities and towns?

Sen. NIXON: I understand from your remarks that there was money to make the first payment. I did not understand that the whole \$10 million was available to be paid prior to June 30.

Sen. DOWNING: Did you understand the recommendations for acquiring that money?

Sen. NIXON: I was not at the Committee hearing.

Sen. SPANOS: Are you aware that the proposed \$12 million deficit, if we do pass this, would include the proposed Income Tax?

Sen. NIXON: I was not aware that any was proposed.

Sen. SPANOS: Were you aware that you were going to have the \$12 million with the Income Tax?

Sen. NIXON: I understand that insufficient monies had been appropriated at the Special Session covering fiscal year June 30, 1971 to make these payments within this period. I am talking between now and the end of June taking into consideration the Governor's proposed program regarding revenue.

Sen. McCARTHY: In a matter as important as this, I definitely support Sen. Downing in indefinite postponement. The first time I saw that amendment was at 1 o'clock this afternoon where they say the State will pay an interest rate of 3 percent. I have no way of knowing whether this is valid.

Sen. R. SMITH: Mr. President, I rise to oppose the pending motion. To support the pending motion would result in utter chaos to the State. We may be facing this motion upon false information. It is probably true that there is money in the Treasury at this time but it is probably also true that this money is already committed to be spent before July 1. If you recall, we had to increase our temporary borrowing authority for \$10 million before the cash flow in the Treasury was in existence. We had a Treasury with practically no dollars and cents in it. If the \$10 million has to be used to make the two payments in March and June, we will probably end up July 1 with no money in the Treasury and no authorization for temporary notes beyond what has already been authorized and the temporary bonding authority will be used up. The Treasury will be faced with making a payment July 15 plus payroll or any other reimbursements to the cities and towns. We will be flat broke July 1.

Sen. JACOBSON: Are you aware that if your motion would prevail, the cities and towns will get no money at all because you will be, in fact, killing the bill that originally came in?

Sen. DOWNING: No, I am not aware of that. I think that you are misinformed.

Sen. LAMONTAGNE: Mr. President, as much as I hate to vote against one of my colleagues whom I think so much of, I am in the position that I have to vote against this motion. We have been talking about Stock in Trade Taxes and Machinery

Tax. Personally, I think there is one thing being left out that the cities and towns can collect, and I am sure they are collecting the Property Tax.

Many of our businessmen have benefited through this Business Profits Tax and certainly if they pay their Property Tax, the cities and towns would not have any problem. Personally, I don't feel any city or town is going to go broke, but I personally feel that we have, which has been pointed out to us by the Chairman of our Finance Committee and anyone who is interested in those figures will know if this debt was paid to the towns; that is, possibly by July first, we would be facing a problem even worse than we are facing today.

We have to keep some money in the funds to be able to pay our employees. We have our committees that have to be paid. With the Property Tax the cities and towns are collecting, I personally feel there is no emergency, but there is one more thing I would like to say of what the Profit and Business Tax has done to the businesses.

The largest industry in the north country is the Brown Company. If anyone doubts this, I would be glad to get some reports on what it meant to the Brown Company. Nobody wants to admit it, but I think the Profit Tax has given us a new tool. It gave us a new tool for industry to come to New Hampshire. I think the cities and towns are benefiting from it, although we are not getting what was expected in the estimates made in the budget of 1969.

The reason for that is because they do not have the collectors. If they have the collectors, they will collect the tax I am sure. Right now I feel the cities and towns are not going to get hurt because there is provision in this amendment to take care of their interest. Along with the collections of the Property Tax, I can't see how they can get hurt.

Sen. PROVOST: I move the previous question.
Adopted.

The motion for indefinite postponement was lost.

PARLIAMENTARY INQUIRY

Sen. KOROMILAS: I move to divide the question under Rule X.

The CHAIR would state that the subject matter here is not divisible but after some further action is taken, an amendment could be offered at that time.

Sen. KOROMILAS: What is the other contingency when this amendment can be brought up?

The CHAIR would state that it is upon the disposition of the Committee Report. The question is on the adoption of the amendment as offered by the Committee.

Sen. Downing asked for a roll call. Seconded by Sen. Koromilas.

The following voted in the affirmative: Sens. Lamontagne, Snell, Townsend, Jacobson, Nixon, English, Porter, Ferdinando, R. Smith, Provost, Brown, Tufts.

The following voted in the negative: Sens. Gardner, Spanos, Morrisette, McCarthy, Marcotte, Koromilas, Downing, Foley.

The vote being 12 Yeas and 8 Nays, the amendment was adopted.

Sen. JACOBSON: Mr. President, I move reconsideration of the vote whereby we adopted the Committee Report. I make this motion because I voted with the majority, in order to allow an opportunity to consider the division of the Amendment to take place. This would allow the question again to be put to the Chair. Under Rule X, any person can ask for a division of the question. Then the Chair would rule on the question for division and if he should rule that it is divisible, we would then act on the question in its divided form. If it is not divided, then whoever makes it may make an appeal to the ruling of the Chair and then there would be a vote on the appeal.

The question is, do you want to reconsider?

A division vote taken, the result being ten yeas and ten nays, the motion was lost.

Sen. SPANOS: Mr. President, I would like at this time to state the reason for my standing in favor of reconsideration on the motion offered by Senator Jacobson. I think it was an effort to give to some of the Senators who voted in opposition to the measure the opportunity to express themselves in favor of the provision in the amendment which would give the towns and cities back their interest costs.

I was hoping that we would have that opportunity so that we could express ourself in favor of that part of the provision. Since I have stood up on this basis, I would like to have the record show that is why I stood up in order that I could have voted in favor of sending back the interest to the cities and towns.

Sen. GARDNER: Had we been allowed to vote on separation, I would have voted to send it, the interest, back to the cities and towns.

Sen. MORRISSETTE: I wish I would have had the opportunity to vote on this motion here. It is only fair they should be paid interest. I definitely favor this. This is simple justice.

CHAIR: The question is shall HB 241 be ordered to a third reading.

Sen. MARCOTTE: I move for a roll call. Seconded by Sen. Spanos.

The following voted in the affirmative: Sens. Lamontagne, Snell, Townsend, Jacobson, Nixon, English, Porter, Ferdinando, R. Smith, Provost, Brown, Tufts.

The following voted in the negative: Sens. Gardner, Spanos, Morrisette, McCarthy, Marcotte, Koromilas, Downing, Foley.

The vote being 12 Yeas and 8 Nays, HB 241 was ordered to a third reading.

Sen. TOWNSEND: I move that at this time HB 241 be put on third reading at this time.

Adopted.

PARLIAMENTARY INQUIRY

Sen. KOROMILAS: Is it not true that a Suspension of the Rules is required to put the bill on third reading at this time?

The CHAIR would state that a Suspension of the Rules is in order and that a two-thirds vote is required. If we do not make some progress on this, we may be here until 10 o'clock tonight.

SUSPENSION OF THE RULES

Sen. TOWNSEND: I move Suspension of the Rules to put this bill on third reading and final passage at the present time.

Sen. KOROMILAS: I support the motion introduced by Sen. Townsend, however, I want to take this opportunity to say that my vote on the third reading that I oppose the first section of the bill, but since there is no division on the issue, then I would definitely vote for the second portion if the first portion has been adopted.

Sen. MARCOTTE: I also would like to rise in accordance. That was the reason why I held the roll call vote. It was for that particular reason to clarify the situation for my district that I did not vote against the payment to the cities and towns, but I did vote against the version that was given to us by the Senate Finance Committee, the first section of the amendment.
Adopted.

Third reading and Final Passage

HB 241, changing the dates for return of revenue to cities and towns, and providing for reimbursement for interest costs.
Adopted.

Sen. R. SMITH: I move reconsideration.
Motion lost.

RECESS

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled bill sent down from the Senate.

HB 241, increasing for one year the temporary borrowing limit of the state.

and requests a Committee of Conference; the Speaker has appointed as members of said Committee of Conference on the part of the House of Representatives.

Rep. Reddy
Rep. Trowbridge
Rep. Raiche

On motion of Sen. Townsend, the Senate voted to accede to the request for the Committee of Conference.

The Chair appointed as members of said Committee on the part of the Senate, Sens. R. Smith and Spanos.

Adopted.

PARLIAMENTARY INQUIRY

Sen. JACOBSON: As I understand it, we do not have Joint Rules. Under what rules would this committee operate?

The CHAIR would state we will have to adopt the Joint Rules of the 1969 Session for today.

Sen. JACOBSON: I move that the Joint Rules of the 1969 Session be adopted for today only.

Adopted.

RECESS

COMMITTEE OF CONFERENCE REPORT

The committee of conference to which was referred HB 241 'An Act increasing for one year the temporary borrowing limit of the state' having considered the same reports the same with the following recommendations:

That the House recede from its position of non-concurrence in the Senate amendment, and

That the Senate recede from its position in adopting its amendment, and

That the House and Senate each adopt the following amendment to the bill.

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

changing the dates for return of revenue to cities and towns, and providing for reimbursement for interest costs.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Changing the Time for Return of Revenue to Cities and Towns. Amend RSA 31-A:5, II (supp) as inserted by 1970,

5:16 by striking out the first sentence of said paragraph and inserting in place thereof the following: (In each year subsequent to 1970 the state treasurer shall pay over to each city or town the amount due to it in installments as follows: one half on July fifteenth, one quarter on September first and one quarter on December first; provided that if a city or town has adopted or at any time adopts a fiscal year ending in June the state treasurer, starting with the year 1971 in the case of a city or town which has already adopted such a fiscal year and starting in the year in which the fiscal year change takes effect in the case of a city or town hereafter adopting such a fiscal year, and each year thereafter in both cases shall make payment in four equal installments, on March fifteenth, June fifteenth, September fifteenth and December fifteenth.) so that said paragraph as amended shall read as follows: II. In each year subsequent to 1970 the state treasurer shall pay over to each city or town the amount due to it in installments as follows: one half on July fifteenth, one quarter on September first and one quarter on December first; provided that if a city or town has adopted or at any time adopts a fiscal year ending in June the state treasurer, starting with the year 1971 in the case of a city or town which has already adopted such a fiscal year and starting in the year in which the fiscal year change takes effect in the case of a city or town hereafter adopting such a fiscal year, and each year thereafter in both cases shall make payments in four equal installments, on March fifteenth, June fifteenth, September fifteenth and December fifteenth. There is hereby appropriated for each fiscal year a sum sufficient to make the payments provided for by this section. The governor is authorized to draw his warrant for the sums appropriated by this section out of any money in the treasury not otherwise appropriated.

2 Reimbursement of Interest. In 1971, in the cases of those cities and towns payments to which have been delayed by the effect of section 1 of this act to July 15, 1971, the state treasurer shall pay to such cities and towns an additional amount to be computed by applying to the amount of such payments an interest rate of three (3) percent per annum from March 1 to July 15 and from June 1 to July 15 respectively. The additional amounts provided for in this section shall be paid on July 15, 1971 and shall be paid whether or not any city or town actually incurred additional borrowing expense. There is hereby appropriated a sum sufficient to make the payments provided for by

this section. The governor is authorized to draw his warrant for the sums appropriated by this section out of any money in the treasury not otherwise appropriated.

3 Effective Date. This act shall take effect upon its passage.

Conferees on the part of the Senate:

Sen. R. Smith, Dist 15

Sen. Spanos, Dist 3

Conferees on the part of the House:

Rep. Reddy

Rep. Trowbridge

Rep. Raiche

Sen. R. SMITH: Apparently, the intent of the interest payment was not clearly understood by the House. The Conference Committee has agreed to a slight change in the language so it makes it clear that all cities and towns will be eligible for the interest payment with the exception of the three towns which have been provided for already.

Sen. JACOBSON: This is regardless of whether they borrow any money or not?

Sen. R. SMITH: True.

Sen. FOLEY: If all the towns are going to get the money regardless of whether or not they borrow it, why aren't the two cities and the other town included?

Sen. R. SMITH: The other two cities and town are not being delayed by the roll back payment. There is no penalty on their part.

Sen. FOLEY: What do you mean, "penalty?"

Sen. R. SMITH: The chance that they will incur a loss by having to pay interest payments on money they would borrow by not being paid their due payment on March 1 and June 1.

Sen. DOWNING: I do not understand entirely. It appears to me that there is a discrimination against the three communities, Laconia, Portsmouth and Hudson and that the other communities, whether they borrow money or not, are going to get paid interest and because these three communities do not have to borrow money are not included. Is that correct?

Sen. R. SMITH: There could be a slight amount of discrimination. The other communities have not had their payments delayed.

Sen. DOWNING: I understand that, but I also understand that you feel that it is reasonable to expect that some communities will not have to borrow any money, even though the payments are going to be delayed and they will be paid interest anyway. Is that correct?

Sen. R. SMITH: I don't understand your question.

Sen. DOWNING: You stated in explaining your report that some communities may not even borrow the money and they will be getting this anyway.

Sen. R. SMITH: True.

Sen. DOWNING: And because you know that Laconia, Portsmouth and Hudson will not be borrowing money, they are not to get any consideration whatsoever?

Sen. R. SMITH: They are receiving their payment on March 1 and June 1 which they have anticipated and are not being penalized.

Sen. DOWNING: They are not any different than the community that isn't borrowing?

Sen. SPANOS: There isn't any question in my mind but there is light discrimination between the rest of the cities and towns and the three towns that are not included. If you recall what I said this afternoon, the one thing that the three towns and cities are going to have, are the availability of these funds in March and June. They are the three towns that are going to pick up the windfall. They will have that money that the other towns are never going to get. These are the three towns that will be getting this much money ahead in perpetuity. The State of New Hampshire will never be able to get that money back from those three towns. It is the one little thing I spoke about as to why I opposed this whole measure. Many of these towns counted on this and voted and supported it whereas the other towns are not going to get the windfall that the three are.

Sen. KOROMILAS: I am looking at the two sections of the bill that the Senate passed this afternoon before the bill went to a Committee of Conference and I am comparing it

with the Amendment that is now a part of the report of the Committee of Conference.

My question is under the Amendment as proposed by the Conference Committee it talks about a payment of 3 percent to the cities and towns. In the Amendment proposed by the Finance Committee this afternoon, it talks about payments made as reimbursements for the cost of borrowing funds in lieu of the payments that would have been received March 1, 1971 and June 1, 1971, I am just trying to point out the difference in the language and what is meant. Why was the word "reimbursement" not used in the Committee of Conference Report? Is there a fundamental difference between the Senate's action this afternoon and the way the amendment is given by the Committee of Conference?

Sen. R. SMITH: As I interpret it, there is no fundamental difference. I did not draft the Committee of Conference Report, although I did sign it.

CHAIR: The question is on the adoption of the Committee of Conference Report.

Adopted.

SUSPENSION OF THE RULES

Sen. FOLEY: I move that the rules be suspended to put SB 40 on third reading at the present time.

Adopted.

Third Reading and Final Passage

SB 40, relative to petitioning for articles to be placed in town warrant.

Adopted.

ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bill:

HB 241, changing the dates for return of revenue to cities and towns, and providing for reimbursement for interest costs.

Sen. English
For the Committee

Report accepted.

Sen. Jacobson moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until next Tuesday at 1 o'clock.

Adopted.

LATE SESSION

Third reading and final passage

HB 241, changing the dates for return of revenue to cities and towns, and providing for reimbursement for interest costs.

SB 40, relative to petitioning for articles to be placed in town warrant.

(Under Suspension)

Adopted.

Sen. Provost moved the Senate adjourn at 6:52 o'clock.

Adopted.

Tuesday

2Mar71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

Eternal GOD, our Father — we thank Thee for the privilege of responsibility and service in these momentous days, days of challenge and days of frustration. Grant us courage to survive and overcome the anxieties of this changing age in which we find ourselves, teach us to rely on Thy changeless grace and love.

We join in an expression of sympathy to Sen. Snell and his family in their grief and sorrow and personal loss. May your blessed comfort, O LORD, carry them through these difficult moments.

Strengthen our faith that we may know that we are not alone in a troubled world, that we may look for the coming of a better world and be a part in building such a world in Thy Name. Amen.

Pledge of Allegiance was led by Sen. Brown.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 85, providing for a one day deer season for residents only. (Downing of Dist. 22 — To Recreation and Development.)

SB 86, creating the position of executive director of the Commission on the Arts. (Foley of Dist. 24, English of Dist. 11 — To Executive Departments, Municipal and County Governments.)

SJR 11, making a supplemental appropriation for the Commission on the Arts. (English of Dist. 11, Foley of Dist. 24 — To Finance.)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 18, relative to preparation of budget for the University of New Hampshire. (Education)

HB 68, prohibiting the hunting or taking of white deer, and defining the same. (Recreation and Development)

HB 74, to provide for absentee voting in primary elections. (Executive)

HB 91, relating to investments of savings banks in real estate. (Banks, Insurance and Claims)

HB 133, providing for workmen's compensation dependency payments. (Ways and Means and Administrative Affairs)

HB 182, relative to the power of Concord College to grant degrees. (Education)

HB 189, authorizing the General Court to provide for the time and mode for submitting constitutional amendments proposed by it to the voters. (Executive)

HB 194, relative to payment of vacation wages. (Executive)

COMMITTEE REPORTS

SB 24

relative to state bridge and town bridge aid. Ought to pass. Sen. Poulsen for Public Works and Transportation.

Sen. POULSEN: Mr. President, SB 24 was introduced by Sen. Smith. It applies to the money that is given to the towns (actually it is TRA Section B money) on bridges on Class II and Class IV roads; the bridges on them. It changes the system from assessed valuation to equalized valuation. In other words, where that applies particularly is in the case of two towns with a joint bridge and one is valued at 30 percent and one at 60 percent; it makes a great problem. If they used equalized valuation, that problem would cease to exist. It raises practically every town in status but likewise, the categories change so that it comes out almost equalized. I have traced it all the way through and as far as I can see, it will require neither no more nor less money than it did previously.

Adopted. Ordered to third reading.

SB 51

providing for the Commissioners of Safety and Education to devise standards for the conduct of driver education courses and to eliminate restricted instruction permits for fifteen year olds. Ought to pass. Sen. Poulsen for Public Works and Transportation.

Sen. DOWNING: Mr. President, SB 51 was introduced by Sen. Foley at the request of the Department of Safety. It represents a product of several years of study between the Department of Safety and the Department of Education and the Attorney General's Office. The product being that the Departments of Safety and Education should coordinate their efforts to provide the proper methods of teaching Drivers' Education. It would also eliminate discrimination of the present provision that a public school could instruct youngsters in the physical principles of driving at fifteen years of age. This would make it apply all the same that every student should be sixteen years old.

Adopted. Ordered to third reading.

SB 52

establishing a medical advisory board in the Division of Motor Vehicles, Department of Safety, and making an appropriation therefor. Ought to pass. Sen. Poulsen for Public Works and Transportation.

Sen. POULSEN: Mr. President, SB 52 again was introduced by Sen. Smith and this bill establishes a medical board of doctors of various categories. The Department of Safety particularly wants this because, as it is now, they have no doctor capable of verifying if anyone is capable of holding a driver's license. By the use of this board, any doubtful cases can be referred to this board to judge on them; eyes, ears, psycho, everything else. The Committee recommends that this bill ought to pass.

Sen. MORRISSETTE: Sen. Poulsen, I know that each week we have a lot of bills, most of which call for appropriations. When the Committee considers these bills, do they take the money factor into consideration? I know that they are almost all desirable.

Sen. POULSEN: As I understand the procedure, this bill will be referred to the Senate Finance Committee so that I think then the expense part is voted on by a separate committee.

Sen. MORRISSETTE: And they will make a separate report?

Sen. POULSEN: Yes. A separate report will come in such as when the State was to back-fill ditches.

Report accepted. Referred to Committee on Finance.

ANNOUNCEMENTS

The CHAIR would like to announce that next Tuesday is Town Meeting Day and as is the custom in prior sessions, we will not be meeting on that day. We will be meeting only on Wednesday and Thursday.

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolution by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock in memory of Sen. Snell's mother who recently passed away.

Adopted.

LATE SESSION

Third reading and final passage

SB 24, relative to state bridge and town bridge aid.

SB 51, providing for the Commissioners of Safety and Education to devise standards for the conduct of driver education courses and to eliminate restricted instruction permits for fifteen year olds.

Adopted.

Sen. S. Smith moved the Senate adjourn at 1:16 o'clock.

Adopted.

Wednesday

3Mar71

The Senate met at 1 o'clock in Joint Convention.

A quorum was present.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 87, providing for a supplemental appropriation to the department of resources and economic development. (Tufts of Dist. 23 — To Finance.)

SB 88, relative to the Robert Frost Homestead Foundation. (Tufts of Dist. 23 — To Finance.)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 107, providing for changing the classification of Pleasant Lake in the Town of New London. (Resources and Environmental Control)

HB 116, increasing the salary of the Strafford County Attorney and empowering the Strafford County Convention to set the salaries of certain county officers. (Executive)

118, providing for changing the classification of Little Lake Sunapee. (Resources and Environmental Control)

HB 124, relative to the salary of the Merrimack County Attorney. (Executive)

HB 138, expanding the substances controlled by the Economic Poisons Law and broadening the powers of the commissioner to control said substances. (Resources and Environmental Control)

HB 145, providing that at any state institution of higher learning, there shall be dismissal of faculty members rioting or inciting to riot and loss of public funds by students inciting to riot or expulsion if involved in riots or take over of buildings. (Education)

HB 206, relative to the director and deputy director of the New Hampshire distributing agency. (Public Health, Welfare and State Institutions)

MESSAGE FROM THE HOUSE HOUSE CONCURRENCE

SB 7, permitting persons convicted of certain sex crimes to waive psychiatric observation and examination, and removing the minimum time for which they may be so committed.

ENROLLED BILLS

SB 7, permitting persons convicted of certain sex crimes to waive psychiatric observation and examination, and removing the minimum time for which they may be so committed.

Sen. Provost
For the Committee

ANNOUNCEMENTS

Sen. SNELL: Mr. President, my family would like to extend their sincere thanks and appreciation for your feelings that you gave to our family over the loss of someone very close.

The CHAIR would like to bring the Senate up to date as to the status of the joint rules. You may recall that this has been in Committee of Conference for several weeks now. We have been trying to get another meeting of the Conference

Committee on joint rules. It seems that the House has had a very busy schedule and it is alleged to have been impossible to have met with us either last week or this week. We now have a tentative date for a Committee of Conference on the joint rules for next Tuesday. We hope that at that time we could come up with a report which would be submitted for the Senate's consideration.

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolution by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock.

Adopted.

LATE SESSION

Sen. Snell moved the Senate adjourn at 1:11 o'clock.

Adopted.

Thursday

4Mar71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by guest Chaplain, Rev. Rodolfo Acosta from the Ecumenical Baptist Church in the Republic of the Philippines.

Our heavenly Father, we praise and extol Thee for every manifestation of Thy goodness. We thank Thee that we have Thy laws and the men to execute them according to Thy holy will and purpose. We claim Thy promise that where truth is sought and lived there is freedom. We seek Thy love that we might learn to love even those with whom we cannot agree on the issues of the day. We implore Thy mercy that we might show it to those who ignorantly violate the very laws that protect them from all forms of wrong and evil. Help us to make this Thy world, and our world, a little bit of Heaven by the fulfillment of the task to which we have committed ourselves.

In Christ's name and for His sake, we pray. AMEN.

Pledge of Allegiance was led by Sen. Foley.

HOUSE MESSAGES INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 179, requiring meat slaughterhouses to pay the cost of inspections conducted outside of regular business hours. (Recreation and Development)

HB 224, relative to number of ballots to be printed for primary elections (Executive)

RECESS

ANNOUNCEMENTS

The Chair has just learned that one of our very distinguished members has recently been elected to the very high office of President of the Owls. We would like to congratulate Sen. Foley for her accomplishment.

COMMITTEE REPORTS

SB 42

increasing the membership of the Commission Advisory to the Commissioner of Resources and Development and making the Commissioner of Public Works and Highways a member. Ought to pass. Sen. Ferdinando for Executive.

Sen. JACOBSON: SB 42 has, as its thrust, the addition of the Commissioner of Public Works and Highways to the Advisory Commission of Resources and Development. The argument was that so much of the issue which this Commission deals with, involved highways. The Commissioner of Public Works and Highways can be a distinct value to the work of the Commission. That is all that this bill does.

Adopted. Ordered to a third reading.

SB 45

relative to the purposes of issuance of bonds or notes. Ought to pass. Sen. Ferdinando for Executive.

Sen. JACOBSON: SB 45 provides that the cost of planning relative to public facilities be included with the bonds and

notes that may be issued in relation to it. It simply allows the cost of buying to be included in the total cost of construction, reconstruction, alteration, or enlargement of a public building or facility.

Adopted. Ordered to a third reading.

HB 122

to allow nonresidents to serve legal process on the Secretary of State as agent for foreign corporations. Ought to pass. Sen. Jacobson for Executive.

Sen. JACOBSON: Mr. President, HB 122 is a further extension of the "long arm of the law" principle. I can best explain the intent of this bill by an illustration. Suppose your mother, who lives in Massachusetts, comes up and she's preparing breakfast on a General Electric or some other type of toaster and the toaster explodes in her face. Now, the incident took place in New Hampshire and the manufacturer is a foreign corporation. What this bill allows is that in civil suits involving damaged cases, she can then have a process served on the corporation even though she is a non-resident. Residents have that privilege at the present time and it extends the long arm principle to non-residents.

Sen. KOROMILAS: Was there a great deal of testimony in favor of the bill?

Sen. JACOBSON: Only the sponsor appeared.

Adopted. Ordered to third reading.

SB 34

increasing the mileage allowance for members of the General Court. Ought to pass. Sen. Jacobson for Executive.

Sen. JACOBSON: Mr. President, what SB 34 does is to increase the mileage allowance in the second and third categories. At the present time, these categories are 8 cents per mile and 6 cents per mile. It raises it to 10 cents per mile and 8 cents per mile. It does not change the present 25 cents per mile for the first forty-five miles. In other words, if your residence is $22\frac{1}{2}$ miles or less from Concord, you will not receive one penny more. It does give a little additional money to those who live at a greater distance. Again, may I illustrate this by a personal reference.

The Town of New London lies at a distance of approxi-

mately 40 miles. The Town of Warner, which I pass through every day, is about 20 miles from Concord. The man who represents the Town of Warner gets \$66; I go twice the distance and I get \$83. In other words, I get \$17 for the double distance additional. If this bill should pass the General Court, it would increase mine by 70 cents per day which means that it would be, my allowance, an average increase of about 4 percent. In 1970, the cost of living rose 5.7 percent. In 1969, it rose 6.1 percent. Since this formula was established in 1965, the cost of living has risen between 35 and 40 percent.

I might add a slight historical note. In 1828, you got 10 cents a mile and you got paid \$2 a day. I went and looked in the Concord Newspaper what you could buy in 1828. You could buy an education for your child at Hopkinton Academy for \$3 a quarter and \$1.50 a week for board and room. You can imagine the value of 10 cents. This 10 cent formula lasted up until the time of the railroads. When the railroads became very powerful in the last part of the Nineteenth Century, they gave discounts to Legislators so that they actually gained a little more money. In 1909, the danger of this kind of conflict of interest arose and a bill was passed in which the state government contracted the railroads to deliver all Legislators to their nearest railroad station and from thereon after from the station, they got 20 cents a mile. When the railroad era ended, they restored the 10 cents a mile in 1935 and that has been changed two or three times since. The inflation of the last two years has certainly eroded any of the benefits that existed. Our costs have risen therefore I recommend its passage.

Sen. KOROMILAS: Mr. President, I oppose the Committee Report. I think the Legislature, today, in an economic quandary, should not be the ones asking for raises, whether it be for a 4 percent increase of what I consider a meager salary anyway, and I think that the time has come when we have to realize that we come here to perform a public service. In this situation, when we are \$20 million in the hole, we should think about our constituents and that should be our real thought at the present time. Referred to Committee on Finance.

SB 38

authorizing town by-laws on snow removal. Inexpedient to legislate. Sen. Poulsen for Executive.

Sen. POULSEN: More information has come to us and we would ask that this be withdrawn and sent back to the Committee.

Adopted. Bill recommitted.

SB 49

relative to the duties of the Department of Resources and Economic Development. Inexpedient to legislate. Sen. S. Smith for Executive.

Sen. R. SMITH: Mr. President, the Committee of Executive Departments, Municipal and County Governments brought in the report, "inexpedient to legislate" because it was our feeling that in so dedicating state parks to particular purposes, that we were stagnating the necessary development of parks. The only person testifying in favor of the bill was the Director of Parks. His main concern being of the possibility of public utilities putting lines through state parks and by so doing, disrupting the operation of the state park. It was the Committee's feeling that this was not a valid reason for putting in this law due to the fact that there are other laws, certainly, which protect state parks against private encroachment. It was also the feeling of the Committee that this could hamper orderly, progressive development of highway usage within the state park system. You will note that we have already acted on SB 42 which makes the Commissioner of Public Works and Highways a member of the Advisory Commission. We felt that possibly this bill was a step backward.

Resolution adopted.

SCR 4

requesting the members of the New Hampshire congressional delegation to seek legislation which will return a portion of the Federal Income Tax to the states. Ought to pass with amendment. Sen. Downing for Judiciary.

AMENDMENT

Amend the resolution by striking out all after the Resolving clause and inserting in place thereof the following:

That this Legislature respectfully requests the members of the New Hampshire congressional delegation to support federal legislation providing for federal revenue sharing with state and local governments and

That a duly attested copy of this resolution be immediately transmitted to each member of the Congress from this state.

SUSPENSION OF THE RULES

Sen. DOWNING: I move Suspension of the Rules in regard to Notice of Public Hearing so that we might act on SCR 4 and HCR 1 at this time. SCR 4 was in the Committee at the same time which HCR 1 was.

Adopted.

Sen. DOWNING: Mr. President, the SCR 4 deals with revenue sharing. The amendment being that originally the bill proposed a specific program and the Committee didn't feel that this was suitable and amended this.

Amendment adopted.

Sen. KOROMILAS: Mr. President, I would like to support the resolution. I think that almost everyone is in favor of revenue sharing. This resolution merely tells the Congressmen that we, the Legislators, would like to go on record that we like the idea of revenue sharing. That is as far as it goes.

Resolution adopted. Ordered to a third reading.

HCR 1

requesting Congress to call a Convention for the purpose of amending the U.S. Constitution to provide for Intergovernmental sharing of Federal Income Tax revenue. Inexpedient to legislate. Sen. Downing for Judiciary.

Sen. NIXON: Mr. President, I move that the words "Refer to Legislative Study Committee" be substituted for "the Committee Report" with respect to HCR 1. The reason for the motion is that the Committee spent some time in hearing and in Executive Session with regard to HCR 1 which would request Congress to call a Convention for the purpose of amending the U.S. Constitution. If prompted by 34 states, it would result in a National Constitutional Convention being called and if the resolution would follow, it would relate solely to revenue sharing. Some of the persons in the legal field of our Committee feel that we should have profound reservations about whether or not a Constitutional Convention can restrict itself to the resolution of one substance. There are many other considerations, pro and con, on this issue and I think it fair to say that it would be a consensus, that this subject merits further study and that is

the reason for the motion that it be so referred to the Legislative Study Committee.

Sen. LAMONTAGNE: I would hope that the Committee would vote this motion down because I would like to recommit it back to the Committee.

Sen. JACOBSON: I stand in full support of the original committee report but if there be any value in further study I will also support the pending motion though I believe the disadvantages which this resolution contains far outweigh any supposed advantage. First, I believe the calling of a National Constitutional Convention, especially in these times of turmoil and national discernity, could disturb and even possibly destroy the fabric of our liberties so long enshrined in our political processes. Though there be those who argue that such a convention may be restricted to a single issue, the real fact is that no one knows this as a certainty.

As far as I know, a deliberative assembly, such as this one, has normally had the liberty to establish its own rules of proceeding. I know of no constitutional restriction respecting the convention in question. Secondly, historically, with the exception of the 18th amendment constitutional changes have taken place because the action proposed was proscribed by existing constitutional limitations. Such is not the case in this instance, revenue-sharing is possible at this very moment if Congress will act. Nothing in our present National Constitution proscribes such action. Thirdly, even if a Convention should meet, and an amendment be adopted by the States, not one penny of federal money will flow to the States until Congress enacts authorization and funds it. Our desire for a share of federal tax dollars would be no closer to fulfillment with the adoption of an amendment than we are now. Fourthly, the motion that the General Court should adopt this resolution as a weapon with which to threaten Congress is a scary idea.

The argument goes that the ball will stop rolling just before it plunges off the cliff. Frankly, I cannot accept the idea that the General Court should pass legislation which does not intend the intention of the Resolution. I find that neither the premise nor the conclusion are a sufficient warrant for positive action.

I want however, to make it perfectly clear that I favor some

form of revenue-sharing and my quarrel is only with the approach proposed by this resolution. I would, in this connection, suggest that the form of sharing is multi-optional. Personally, I favor the motion that the Federal Government assume full financial responsibility for welfare. Such a change in national policy would bring in more revenue than any other method. With this in mind, I have introduced a resolution aimed at supporting such a change in policy.

In all candor, I believe governments on all levels are fast reaching the limits of fiscal policy. Without internal, governmental reform, the weight of these structures may come crashing down upon us. You have all seen the Volvo Ad where the ravenous beast eats all that is in sight. The end comes when there is nothing more to eat.

Sen. DOWNING: I rise in support of the motion that was put forth by Sen. Nixon. I, certainly as a member of the Judiciary Committee, recognize that if there is any further action to be taken on this, it should be relative to a Study Committee.

Sen. SPANOS: I move that further consideration of HCR 1 be postponed indefinitely.

The CHAIR would state the motion is improper at the present time.

Sen. SPANOS: Mr. President, I rise in opposition to committing this resolution to the Legislative Study Committee.

As you have been informed, both SCR 4 and HCR 1 deal with revenue-sharing. The former calls upon our Congressional delegation to support the revenue-sharing principle and the latter calls upon Congress to convene a Constitutional Convention to adopt an amendment to our Federal Constitution to establish the revenue-sharing concept. Although the ends sought are identical, the means to promote this venture are as different as black is from white.

I am not going to bore you with the need for federal-state tax sharing. All states need uncategorical grants to meet the many crises they face. As I have stated before, those on the Potomac do not have a monopoly on wisdom or that which is a priority.

I fully recognize the resolution which I sponsored (and

which has been amended by the Senate Judiciary Committee) for what it is — a very simplistic effort towards influencing a very small segment of our Congress (4 men) to act favorably in this area. It certainly can do no harm to pass it. I don't have to tell you that there is a growing sentiment towards the adoption of revenue-sharing what with President Nixon making the matter a key political issue.

On the other hand, HCR 1 can be harmful. If we enact this resolution, the General Court has taken a giant step towards the calling of a Federal Constitutional Convention. As a matter of fact we will be 1/17 th of the way there inasmuch as we will be at least the second state out of the thirty-four required to pass such a measure — a measure which will put into operation an instrument of change never utilized since the original Constitutional Convention which adopted the U. S. Constitution.

I should point out at this time, that if 34 states adopt such a resolution as HCR 1, Congress must call such a Convention. It has no discretion. What bothers me is that we have no experience in this area, no precedents, no guidelines of operation. I submit that before we act to call a Federal Con-Con, that the Constitution be amended first, to establish procedures and guidelines, or, as some believe, have Congress enact legislation to create the machinery required.

However, the thing that worries me the most (and concerns most opponents of the Con-Con method) is that there is nothing in the U. S. Constitution to limit such a convention to a single issue, i.e. federal tax-sharing. Many feel that it cannot be so limited and are frightened over the possibility that the Convention might rewrite the national charter.

If this is the case visualize, if you will, the type of amendments that might be proposed. Abolish the income tax; elect the Supreme Court; limit social security taxes; require the advice and consent of the House for treaty-making; limit the power of the President; regulate pornography; rescind a portion of the Bill of Rights. I am not being facetious — these amendments (and many more) have been introduced by individual Congressmen in the past.

As Sen. Cotton said: "At best a Constitutional Convention would be likely to submit a host of amendments dividing our

people. At worst, it might even attempt to re-write the Constitution of the United States.

Ted Sorenson said: "There is a possibility that we will have a wide-open unpredictable dabbling with our historic charter.

Here we have the views of two men on opposite ends of the political spectrum philosophically who feel that the Con-Con procedure is dangerous.

I have one further comment to make and that is the argument used that if enough states pass this resolution that it will force Congress to enact revenue-sharing legislation. I believe that many House members voted for HCR 1 along these lines without fully realizing that 34 such legislative actions and we end up with a Con-Con on our hands. And this is not beyond the realm of possibility. I don't have to remind you that 33 states adopted a resolution calling for a Con-Con to eliminate the "one-man, one-vote" concept. In other words, we might, in our political naivety end up with a run-away horse.

The action of those sponsoring HCR 1 and the action of the House in passing this resolution is a reckless disregard of the consequences to the stability of this Republic. And as the Editor of the Newport Argus-Champion put it in a recent editorial on this subject: "The House has voted to sell its birth-right for a mess of pottage." Let us respond more responsibly.

Having spoken to illustrate my concern and in deference to the Senate Judiciary Committee I now support the motion offered by Senator Nixon.

Sen. MORRISSETTE: I would like to express a few words along the line of thinking of the distinguished member from District 1 that I hate, unless there is absolutely no other way out, to duck the issue another two years. I cannot see any harm in giving it some more thought. I, for one, have not given it a reasonable amount of thinking. I just haven't had the time to talk to attorneys. I talked a little bit to Sen. Spanos on this subject; he did bring up something that sounds scary but I have not had the opportunity to listen to other people that would favor this. I cannot see any harm in ducking our responsibilities and I am hoping that we may go along with Sen. Lamontagne's proposed amendment and give it a little more time.

Sen. KOROMILAS: I rise in support of the Committee Report to send HCR 1 to the Legislative Study Committee.

Midway between the time that the House passes this particular bill and the time it's reported by the Judiciary Committee, I was asked to read an article that is put out by the National Committee of Legislators. I diligently read the article; it was written by a gentleman who is a Professor of Law at Chicago University. I read the whole thing through and the thing that bothered me and still bothers me is the fact that once you call a Constitutional Convention you cannot limit it to a particular subject. This is what this HCR 1 does. It intends to limit to one subject.

I think that the distinguished gentleman who wrote the articles will admit that there are two sides. Some people say that you can limit the Constitutional Convention when it is called and some people think contrary. There is a disagreement amongst the authorities. I think they all agree that the Congress, by statutory act, can limit Constitutional Conventions to one particular issue. But, as yet, our National Congress has not seen fit to limit the calling of a Constitutional Convention to one particular item. I think that this is the real problem with the bill. Once we pass, we have no more control. Needless, all is gone and no one can say if we go along with this particular resolution, that it will be limited and no one can say that it won't. There is nothing today on our statute books on the federal level that it can limit the problem to one particular issue. This is the basis why I disagree with this particular bill.

Adopted. Ordered to Legislative Study Committee.

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today it be until next Wednesday at 1 o'clock in honor of our newly elected President of the Owls, Sen. Foley.

Adopted.

LATE SESSION

Third reading and Final Passage

SB 42, increasing the membership of the Commission Advisory to the Commissioner of Resources and Development and making the Commissioner of Public Works and Highways a member.

SB 45, relative to the purposes of issuance of bonds or notes.

HB 122, to allow nonresidents to serve legal process on the Secretary of State as agent for foreign corporations.

SCR 4, requesting the members of the New Hampshire congressional delegation to seek legislation which will return a portion of the Federal Income Tax to the states.

Adopted.

Sen. SPANOS: Mr. President, having voted with majority with regard to SCR 4, I move reconsideration.

Motion lost.

Sen. Foley moved the Senate adjourn at 2:12 o'clock.

Adopted.

Wednesday

10Mar71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

Our FATHER GOD — thankful for life, grateful for the opportunity to seek meaning and purpose in our lives, challenged to use our knowledge and abilities for the common good of our Granite State and her citizens — enable us to hear the sounds of the world around us, the cries of the frustrated and depressed, the silence of those unable to communicate; make us sensitive, through sight and sound, to the needs of our people; let our words and actions testify to our involvement and willingness to serve with honor. Let us live out the life granted to us, the life we know through Jesus Christ, in whose name we pray. Amen.

Pledge of Allegiance was led by Sen. Poulsen.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 89, relative to the distribution of state publications. (English of Dist. 11 — To Executive Departments, Municipal and County Governments.)

SB 90, relative to penalties for speeding. (Jacobson of Dist. 7 — To Public Works and Transportation.)

SB 91, naming a certain mountain in the Town of Odell, Muise Mountain. (Poulsen of Dist. 2 — To Resources and Environmental Control.)

SB 92, authorizing law enforcement officers to require weighing of motor vehicles. (Smith of Dist. 3 — To Public Works and Transportation.)

SB 93, relative to workmen's compensation to state employees. (Smith of Dist. 3 — To Ways and Means and Administrative Affairs.)

HOUSE MESSAGES INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 2, providing that voting residence is not lost by being in a nursing or convalescent home or hospital. (Executive Departments, Municipal and County Governments)

HB 11, to provide for the annual election of officials of Lebanon School District at the same time as the election of the city or state officials. (Special committee consisting of Sens. Jacobson, Spanos and Townsend)

HB 12, amending the Lebanon City Charter to provide for three-year terms for city councilors, three to be elected annually. (Special committee consisting of Sens. Townsend, Jacobson and Spanos)

HB 146, relative to service roads constructed by the State in conjunction with limited access facilities. (Public Works and Transportation)

HB 164, to allow discovery in criminal matters prior to indictment. (Judiciary)

HB 231, requiring that the articles of agreement of voluntary corporations and associations provide for the disposition of the assets of such corporations upon their dissolution. (Executive Departments, Municipal and County Governments)

HB 242, providing that the re-registration of voters be postponed until 1974 and establishing a committee to study and

report on the form of checklists. (Executive Department, Municipal and County Governments)

HB 260, requiring insurance companies to pay the cost of physical examinations where the insurer requires them before extending liability coverage. (Banks, Insurance and Claims)

HB 276, relating to conservation officers of the Fish and Game Department. (Recreation and Development)

HB 278, relating to milk producer permits. (Recreation and Development)

HJR 1, providing additional funds for boards of professional engineers. (Finance)

HJR 12, making a supplemental appropriation for the racing commission. (Finance)

HOUSE CONCURRENCE

SB 4, relative to the composition of the Judicial Council.

HOUSE NON-CONCURRENCE

SB 36, relative to voting on zoning ordinance amendments at special town meetings.

SB 43, providing that the state geologist need not be a faculty member of a New Hampshire college or university.

COMMITTEE REPORT

HB 9

prohibiting the use of motor boats on Chocorua Lake. Ought to pass. Sen. McCarthy for Resources and Environmental Control.

Sen. S. SMITH: Mr. President, I hope the Senate will go along with the report of the Committee. HB 9 would limit the use of power boats on Lake Chocorua in the Town of Tamworth. Most of you, I am sure, are familiar with the beauty of Lake Chocorua and also with the problems of congestion in that area due to the fact that this is one of the first lakes and exceedingly close to the highway. The people in the town have been highly in favor of this bill. In the Senate and House hearing, from my understanding, the selectmen from the town were

present and spoke in favor of it. I attended the Senate hearing and there was absolutely no opposition to the bill.

Adopted. Ordered to third reading.

ENROLLED BILLS REPORT

HB 122, to allow nonresidents to serve legal process on the Secretary of State as agent for foreign corporations.

SB 4, relative to the composition of the Judicial Council.

Sen. Provost
for the Committee

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock in honor of that gallant St. Albans, Vermont editor of a Loeb newspaper who resigned his position rather than to submit to censorship of the news.

Adopted.

LATE SESSION

Third reading and final passage

HB 9, prohibiting the use of motor boats on Chocorua Lake.

Adopted.

Sen. R. Smith moved the Senate adjourn at 1:20 o'clock.

Adopted.

Thursday

11Mar71

The Senate met at 1 o'clock.

A quorum was present.

SHALOM.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

We gratefully acknowledge, O Lord our God, that Thou art our Creator and Preserver, the Rock of our life and the Shield of our help. We render thanks unto Thee for our lives which are in Thy hand, for our souls which are ever in Thy keeping, for Thy wondrous providence and for Thy continuous goodness, which Thou bestowest upon us day by day. Truly, Thy mercies never fail and Thy loving-kindness never cease. Therefore in Thee, do we forever put our trust. Amen.

(Purim Prayer — ex. *Union Hymnal* . . . 1949, 3rd edition)

Pledge of Allegiance was led by Sen. Leonard.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 94, relating to the improvement of clinical laboratories. (Snell of Dist. 4 — To Public Health, Welfare and State Institutions.)

SB 95, abolishing the office of research analyst, to Senate Finance Committee and removing any reference to that office in the RSA. (Jacobson of Dist. 7 — To Finance.)

SB 96, relative to the interest on deposits in credit unions. (Lamontagne of Dist. 1 — To Banks, Insurance and Claims.)

SB 97, relative to conflict of interest for certain public officials. (Morrissette of Dist. 16 — To Executive Departments, Municipal and County Governments.)

SB 98, increasing the state guarantee for certain school construction programs. (Spanos of Dist. 8, Jacobson of Dist. 7 — To Education.)

HOUSE MESSAGES INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 190, providing for competitive examinations for the selection and promotion of police officers and establishing a probationary period for newly selected police officers in towns. (Executive Dept., Municipal and County Governments)

HB 199, to permit a legal voter who is registered as a member of a party to re-register as not being a member of any party. (Executive Department, Municipal and County Governments)

HB 268, relative to unauthorized insurance. (Banks, Insurance and Claims)

HB 298, to provide to recording of short form leases. (Judiciary)

HB 271, to increase the salaries of the Coos County Attorney and the Coos County Commissioners. (Executive Dept., Municipal and County Governments)

HJR 21, in favor of William J. Wilson of Canterbury. (Banks, Insurance and Claims)

COMMITTEE REPORTS

HB 136

to authorize use of fictitious names in certain proceedings in equity. Ought to pass. Sen. Leonard for Judiciary.

Sen. LEONARD: Mr. President, this bill was submitted by Rep. Bradley who was involved in the suit against the Dartmouth students who held a building last year. They found that the statute on the books today would allow a law action against John Doe (We don't know the name of the defendant). They used that statute to bring action against John Doe because they didn't know the names of the people in the building. This was an equity action. All this bill does is allow this in an equity matter and it could be considered a housekeeping bill in that it improves the legal procedure in the state.

Adopted. Ordered to third reading.

CACR 13

Relating To: The origination of revenue-raising bills. Providing That: Either the House or the Senate may originate revenue-raising bills. Ought to pass. Sen. English for Judiciary.

Sen. JACOBSON: Mr. President, CACR 13 is an effort to correct what is a constitutional limitation at this time. That is that all revenue-raising bills must originate in the House of Representatives. The historical origin of that is that when our nation was formed and when our Congress was established, the National House of Representatives, being a populous group, that is representing the people, was the more equable place where revenue-raising bill would originate in order to get the broad-base of discussion with respect to that important question which so profoundly vexed everyone; that is, taxes. Now, in more recent years, the Supreme Court has held to the one man one rule principle and whereas our State Senate was at one time organized on a basis of the then population, today our State Senate is organized on the basis of population and therefore, is more truly representative of the total population. The intention of this bill then is to provide this body with revenue-raising power as already is possessed by the House of Representatives. That is the intention to put the amendment before the people to see if they would desire that both bodies, both the Senate and the House of Representatives, have the power of revenue-raising.

Sen. SPANOS: Mr. President, as Sen. Jacobson has indicated, this is an amendment which alters Article 18 of the New Hampshire Constitution which stipulates as follows: "All money bills shall originate in the House of Representatives; but the Senate may propose, or concur with, as on other bills."

CACR 13, which I sponsored and which has received the stamp of approval from the Senate Judiciary Committee, would give to the Senate the right it has long been denied — the privilege of introducing revenue measures which today is strictly the fiefdom of the House.

It would appear that originating money bills in the House only has its origin in our historical past — that there should be no taxation without representation. Since the House represented population and the upper Chamber wealth and property, our Founding Fathers gave the power to originate money bills to that body which most closely represented the masses and avoided giving the same power to those who represented the aristocracy and vested interests.

But that traditional reasoning is no longer applicable in our political society. Wealth and property as a basis for repre-

sentation has been voided. Wealth and property per se is no longer represented in the Upper Chamber. Both bodies now represent people.

This being the case, I can no longer see the reason to perpetuate this system in the Twentieth Century. It is an anachronism. Besides, I consider myself only a half-a-legislator not being able to offer revenue measures which today happens to be the key issue of our times. We go about our job concerning ourselves with budgets, expenditures, appropriations and testing priorities without the full and complete knowledge required to make intelligent decisions. Our efforts appear hollow.

I am most disturbed to have to wait upon the House to forward to us that which they consider to be the proper measure to raise money. The House has able men within it, but not all the wisdom of the State House resides there.

I am not happy waiting until (pardon the expression) the "Midnight Hour" to have transmitted to us revenue measures so that we have to take it or leave it because of the pressure of time and political expediency. Past experiences in this Chamber tells us how difficult it is to amend any such bill which passes the House.

Apparently, there are many who are beginning to feel the same way. Three states adopting modern, up-to-date constitutions have incorporated this concept in their organic law: Michigan in 1962, Florida in 1968 and Illinois as recently as last year.

I have been informed by some that the House will be reluctant to relinquish their monopoly on money bills as it represents a most strategic weapon in the "in-fighting" of our democratic process. I don't believe that this is sufficient reason to continue this practice. As a matter of fact, were the House to support this amendment, it would tend to minimize their notoriety and they could share with the Senate the responsibility, the blame and the accolades attendant upon the introduction of any revenue measure.

I have also been informed by some that the Senate will consider this a "hot potato" and be reluctant to give up their hiding place behind this constitutional limitation. It is so very easy to evade the issue when the people back home inquire as to money bills. Well, all I can say to you, my fellow colleagues,

is that once in a while (as U. S. Senator Edmund Ross said when he voted against the impeachment of President Andrew Johnson) we must "look into our own grave" and find the political courage to do that which is right.

I submit that this Legislature must be made more responsible and more accountable to the people of this state. The amendment before you will free the Senate from an unnecessary, historically exhausted constitutional shackle and will help to create a more effective and a more responsible Legislature. This constitutional reform will reflect a response to the emerging problems of the 70's and serve as a catalyst for change.

I urge my colleagues to support the Committee report.

Sen. KOROMILAS: Mr. President, I rise in opposition to the Committee report. I think we all realize that the House does have, in our present Constitution, the right to raise money. I don't think anyone evades their responsibilities and I think everyone, at one time or another, is called upon to pass or not pass on revenue bills. I think in the House they have four hundred people and we have twenty-four. I admit that it is one man, one vote at the present time and I admit to the historical background as stated by the distinguished senator from the Seventh District. I cannot see that a case has been made to have this Chamber have the right or the power to raise revenue bills.

I have sat in this Chamber two sessions and I have seen bills coming from the other side, as the distinguished senator from the Eighth District said, and this particular body won't even change one comma, one comma of revenue-raising bills. So here we are; we are frightened of even changing one dash when it comes to us as a revenue-raising fund. And now we want to be the people who are going to raise revenue.

I feel the tradition of this, of our Constitution, of what you see on the National level with respect to the Federal Government, that the Senate too, is also based on a one man, one vote. It's a proper election for the Senate at the Federal level and it's the House that originated revenue legislation. I don't see any kind of idea that is going across the land that says that the Senate of the United States should also have the power to originate revenue bills. Just let me speak for the country. There are only three states in the Union that have this power. I don't see any great surge, any push. How is this going to solve our

problem? I feel the argument that has been brought before you today does not establish a need of this type of Constitutional amendment.

Sen. FERDINANDO: Mr. President, members of the Senate, I rise in support of the Committee report, ought to pass for the following reasons. The Senate, from my observations, has been nothing but a rubber stamp as far as the revenue producing bills are concerned. We are either concerned with the matter of accepting or rejecting without any alternatives of our own. We are in the same situation at this time. We are going to wait until the end of the year deadline comes up and whatever bills are passed are those that we are going to be forced to accept in order to meet the needs of the State. For that reason, I think that we should have the right to utilize our own ideas and feelings on how money should be taxed and how we should be able to raise these revenues. Only if we have this power will we be able to serve the State in the manner in which we should be able to do so and I think a referendum would so indicate.

Sen. MORRISSETTE: I rise in support of the proposed amendment. My main concern is that I feel that whenever there is an opportunity to permit the population at large to express their wish, whenever it's feasible you should do it. In reference to tax bills, I have been very concerned. I fear that the bills coming into the Senate towards the end of the session will be almost impossible to act on with all the background and knowledge that is necessary for intelligent legislation. The bill coming into the Senate late in the session is not going to be dealt with fairly with respect to representation. I agree with the Senator from the Fourteenth District that we should not only be a "rubber stamp" for the House, but we should be able to originate the bill. Between the House and Senate, we should be able to come up with something that is in the best interest of everyone in the State.

Sen. LAMONTAGNE: Mr. President, I rise in support of the Committee report. I personally feel that our hands are tied when we want to introduce revenue bills. We can't put the language in our bills that we wish to because we would be facing a problem. This bill would make it a lot easier. We should be able to introduce some of our own legislation to go along with the spending to finance some of the projects which we have in mind.

A division vote taken, 18 yeas, 1 Nay.

Adopted.

Resolution order to third reading.

PERSONAL PRIVILEGE

Sen. JACOBSON: Mr. President, last Monday an editorial in the *Union-Leader* denominated me as being "of course, a certified member of the Education Lobby." Naturally, I was somewhat surprised and I am sure that Commissioner Paire's and President McConnell's eyes must have jumped out of their sockets when they read the editorial. I was, of course, much interested in who granted this alleged certification. No one has assumed the responsibility despite extended inquiry. I wondered also who, among my Senate colleagues, were certified.

The mystery has deepened. Since I know no other member, the situation reminds me of Breuzel's famed painting, "The Blind Leading the Blind." You can imagine the infelicitous relation which this situation conjures up.

All this would be quite laughable if it were not for the serious insinuation of guilt by association contained therein. It is true that I am a teacher. If, however, I am unable to separate my economic occupation from my legislative responsibility, then I am unworthy of the high privilege of serving as a senator. As far as I know, I have tried to make legislative decision on the basis of what is best in the public interest. If the *Union Leader* knows of instances where I have violated that basic principle, I shall be glad to know of them.

Furthermore, such statements place legislators in untenable positions. If I should vote for HB 18, the *Union Leader's* conclusion would follow: "We told you so!" If I should vote against HB 18, then others could say: "Senator Jacobson is easily intimidated!" I have no objection to criticism of a decision which I have taken, but I strenuously object to efforts to anticipate my decision.

Sen. KOROMILAS: I, too, read Monday's newspaper, the *Manchester Union Leader*, that I was a graduate of the University of New Hampshire. I was flattered but I am not. I am an alumnus of one semester. That is not my problem. The implication is what I don't like. That doesn't necessarily mean that

I should make William Loeb of the *Manchester Union* an issue in my next campaign. But, the implication is that since I am Chairman of the Committee of Recreation and Development and Vice-Chairman of Health and Welfare and State Institutions, one would think that I were using, perhaps having had these exalted positions, having been given these exalted positions, that I would act accordingly to some particular lead. I want the world to know that I asked for no committee assignments. I was given those assignments. I hold nothing to anyone. I will vote on this particular bill, with respect to U.N.H., as my conscience dictates and after I have consulted with my constituents.

I strongly resent the implication or the inference that one may draw because I hold these particular positions, that I am going to go along with the University of New Hampshire.

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until next Tuesday at 1 o'clock.

Adopted.

LATE SESSION

Third reading and final passage

HB 136, to authorize use of fictitious names in certain proceedings in equity.

Adopted.

CACR 13, Relating To: The origination of revenue-raising bills. Providing That: Either the House or the Senate may originate revenue-raising bills.

Division Vote: 20 Yeas, 1 Nay.

Adopted.

Sen. Spanos moved reconsideration of CACR 13.

Motion lost.

Sen. Marcotte moved the Senate adjourn at 1:40 o'clock.

Adopted.

Tuesday
16Mar71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

O THOU who art from everlasting to everlasting, whose power reigneth over all, on every side we behold the matchless order of The Creation. We would pay Thee homage today as we seek the purity of mountain streams, the beauty of budding flowers, the nobility of towering trees, the warming rays of sunshine, the absolute obedience of the constant stars. Give us to know that true greatness is to serve Thee, true joy is to love Thee, and true peace is to know Thee — that, in knowing Thee, we may serve Thee honorably through our legislative endeavors. Amen.

Pledge of Allegiance was led by Sen. McCarthy.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 99, relative to the sale of vinous beverages in retail stores. (Ferdinando of Dist. 14 — To Ways and Means and Administrative Affairs.)

SB 100 authorizing the State of New Hampshire to acquire from the town of Woodstock bridge No. 205-078. (Smith of Dist. 3 — To Public Works and Transportation.)

SB 101, providing for the recognition of "middle schools." (Jacobson of Dist. 7 — To Education.)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 82, relative to the expenditure of funds in urban renewal programs. (Executive Department, Municipal and County Governments)

HB 110, relative to the conduct of voting at town and village district meetings and school districts within said town. (Executive Department, Municipal and County Governments)

HB 115, relative to the control of junk yards on the interstate, federal-aid primary and turnpike highway systems. (Public Works and Transportation)

HB 201, relative to donation of blood by minors. (Public Health, Welfare and State Institutions)

HB 207, relative to the control of radiation. (Public Health, Welfare and State Institutions)

HB 216, relating to excepted persons in the practice of medicine. (Public Health, Welfare and State Institutions)

HB 217, relating to occupational health services. (Public Health, Welfare and State Institutions)

HB 246, authorizing the use of breath tests to determine the percentage of alcohol in the blood stream of motor vehicle operators. (Public Works and Transportation)

HB 282, providing for an open season on fisher. (Recreation and Development)

HB 318, relating to the Town of Gorham. (Executive Department, Municipal and County Governments)

HOUSE CONCURRENCE

SB 35, eliminating certain duties of the Secretary of State.

COMMITTEE REPORTS

SB 21

providing that school districts may include in borrowing the cost of planning for construction. Ought to pass with amendment. Sen. English for Education.

AMENDMENT

Amend the title of said bill by striking out the same and inserting in place thereof the following:

AN ACT

providing that school districts may include in borrowing the cost of planning for construction and the amount and purposes of annual grants to school districts.

Amend the bill by striking out section 2 and inserting in place thereof the following new sections:

2 Grants for School Related Construction. Amend RSA 198:15-a (supp) as inserted by 1955, 335:9 and amended by 1967, 449:2 by striking out said section and inserting in place thereof the following: 198:15-a Annual Grants for Payment of Debt Service for School and School Related Construction. To aid local school districts in meeting the costs of the payment of debt for school buildings, educational administration buildings and auxiliary school facilities, including offices for supervisory unions and school bus garages, the State Board of Education shall, from funds appropriated by the General Court to carry out the provisions of this subdivision, pay annually to the school districts of the state, sums in accordance with the provisions of this subdivision.

3 Amount of Annual Grant to School Related Facilities. Amend RSA 198:15-b (supp) as inserted by 1955, 335:9 and amended by 1957, 301:1; 1963, 277:3; 1965, 150:2; 1967, 362:4, 399:1, 449:3 and 1969, 347:4 by striking out said section and inserting in place thereof the following: 198:15-b Amount of Annual Grant. The amount of the annual grant to any school district duly organized, any city maintaining a school department within its corporate organization, any cooperative school district as defined in RSA 195:1, or any receiving district operating an area school as defined in RSA 195-A:1, shall be a sum equal to thirty percent of the amount of the annual payment of principal on all outstanding borrowings of the school district, city, cooperative school district or receiving district, heretofore or hereafter incurred, including loans made by the New Hampshire school building authority, for the cost of construction or purchase of school buildings to the extent approved by the State Board of Education, provided that any school district may receive an annual grant in the amount of forty percent for the construction of educational administration offices for supervisory unions, and thirty percent for school bus garages, except in cooperative school districts when the percentage determining the grant shall be the same as received by the cooperative school district for other school buildings as provided herein, and provided that the amount of the annual grant in the case of a cooperative school district, or a receiving district operating an area school, shall be forty percent plus five percent for each pre-

existing district in excess of two and each sending district in excess of one, and provided further that no cooperative school district, or receiving district operating an area school, shall receive an annual grant in excess of fifty-five percent. If a cooperative school district becomes the receiving district of an area school, the annual grant shall be the percentage presently being received by the cooperative district plus five percent for each sending district providing no annual grant shall be in excess of fifty-five percent. For the purpose of computing grants hereunder, the amount of the annual payment of principal shall be increased by a sum equal to the amount of capital reserve and/or amount raised by taxation which was actually expended for the project within a time limit approved by the state board of education, divided by the number of years, or portion thereof, for which the bonds or notes were issued to provide funds for such school buildings, auxiliary facilities and/or supervisory union offices. If the project was entirely financed by the use of capital reserve or amounts raised by taxation, the aid provided herein shall be paid in ten equal annual grants. For the purposes of this subdivision construction shall include the acquisition and development of the site, construction of a new building and/or additions to existing buildings including alterations providing additional pupil capacity, architectural and engineering fees, purchase of equipment and any other costs necessary for the completion of the building as approved by the state board of education; and purchase of school buildings shall include the acquisition and improvement of land in connection therewith and the remodeling, altering, repairing, equipping and furnishing of such buildings as approved by the state board of education.

4 Effective Date. This act shall take effect sixty days after its passage.

Sen. DOWNING: Mr. President, SB 21 would make the cost of planning a bondable item for school districts and the amendment would cover the cost of the addition of garages as transportation bus garages in each school district maning their own buses and want to build a garage for them but are not eligible for state aid now. The amendment would make them eligible and it will also permit a 40 percent state aid instead of the usual 30 percent for Supervisory Union Administration buildings.

Adopted. Ordered to Committee of Finance under the rules.

SB 47

relative to salary increases upon certification and eligibility for certification of certain medical personnel. Ought to pass with amendment. Sen. Koromilas for Public Health, Welfare and State Institutions.

AMENDMENT

Amend section 1 of the bill by striking out the same and inserting in place thereof the following:

1 Classified Employees Included. Amend RSA 94:7 (supp) as inserted by 1965, 365:4, by inserting in line three after the word "any" the words (classified or) and by striking out in lines four and five the words "American Board of Neurology and Psychiatry" and inserting in place thereof the words (American Board of any medical, dental or surgical specialty) so that said section as amended shall read as follows: 94:7 Increases for Certification or Eligibility for Certification. Upon the request of the appointing authority, the governor and council upon a finding that it is in the best interest of the state may increase the annual salary of any classified or unclassified employee by one thousand dollars if said employee is eligible for certification by the American Board of any medical, dental, or surgical specialty and by three thousand dollars if said employee is certified by said board.

Sen. S. SMITH: Mr. President, SB 47 deals with salary based on qualifications of medical personnel hired by the State. Under the existing law, a board-certified, board qualified psychiatrist may receive a certain increase in pay. This makes this possible for members of other medical professions and specialties and it has been requested by the Department of Health and Welfare due to the great difficulty which they have had and are continuing to have in retaining doctors and in hiring for the Department of Health and Welfare.

Adopted. Ordered to Committee on Finance.

HB 77

relative to the powers of the Board of Nurse Registration, duties of nurses, and increasing certain fees. Ought to pass. Sen. Snell for Public Health, Welfare and State Institutions.

Sen. SNELL: Mr. President and members of the Senate, HB 77 is strictly an updating of RSA 326-A:2 and I would like to cover just four points to support this piece of legislation.

First, it provides the legal sanction for the more efficient and economical utilization of the registered nurse in the health care delivery system in New Hampshire.

Second, it clarifies the role and responsibility of the prepared registered nurse in the evolving and expanding techniques of diagnostic and therapeutic procedures and thereby protects the public and promotes optimum care and services for all people.

Third, it brings the fees for the services of the Board of Nursing to the individuals using them into a more realistic structure and category.

Fourth, it protects the public and at the same time the rights of the individual nurse concerned by the explicit provisions for Board conduct relative to suspension and revocation of licenses.

May I also point out that there was no one in objection in the House and no one appeared in opposition in the Senate and I hope that the Senate will concur that this piece of legislation will pass.

Adopted. Ordered to third reading.

SB 27

to provide procedures for the prevention and cleanup of oil spillage in public waters. Ought to pass with amendment. Sen. McCarthy for Resources and Environmental Control.

AMENDMENT

Amend RSA 146-A:2, I as inserted by section I of the bill by striking out the section and inserting in place thereof the following:

I. "Oil" as used in this chapter means oil of any kind, including but not limited to petroleum, fuel oil, gasoline, oily sludge, oil refuse, oil mixed with other wastes, crude oils, and all other liquid hydrocarbons regardless of specific gravity.

Amend RSA 146-A:6 as inserted by said section of the bill by striking out the section and inserting in place thereof the following:

146-A:6 State of Local Officials. All law enforcement officers and fire officials on the advice of the water supply and pollution control commission or the commission's authorized agent, may assist in any oil spillage cleanup operation and may receive its support and guidance when engaged in such assistance.

Sen. PORTER: Mr. President, SB 27 is a product of a joint House and Senate Legislative Study Commission. The efforts of this joint committee had full cooperation of WSPCC and the petroleum industry.

The amendments proposed appear on page 26 of today's calendar and are two in number. The first amendment changes a typographical error on the last line of page 1 from "city" to "oily" sludge.

The second amendment clarifies the responsibility of law enforcement and fire officials to the WSPCC as regards assistance during an oil spill. The paragraph on page 4 did cause these law and fire personnel to be subordinate to the WSPCC and the amendment calls for their assistance, which is expected.

The objective is to cope with accidental oil spills in territorial waters of state.

SB 27 designates WSPCC with responsibility to oversee this type of problem if it happens.

No one wants a spill, but it can happen.

There are *NO* regulations as part of our laws to effect and ensure available to provide cleanup.

Maine, with its deep water ports, is attracting the super tankers.

The city of Portsmouth and the Great Bay are attracting increased oil handling vessels. There has been one major spill already in Portsmouth.

Two private/state committees have assumed responsibility for creating contingency plans. These committees are composed of the WSPCC and the Petroleum Council. One commission is responsible for coastal waters and the other for inland waters. They have done an excellent job. Private support is certainly encouraged and commended.

SB 27 assigns responsibility, will provide bonding schedule and has short and long term solutions to the problem.

I urge my fellow Senators to support the amendments and the passage of the bill. Thank you.

Sen. JACOBSON: Sen. Porter, the last time we had a bill in, SB 146, was in the 1969 session which dealt with the same problem and I am glad the solution has been worked out with the Water Pollution Control Commission. The one question that I have is are there control functions that the Water Pollution Control Commission are going to have or how are they going to enforce it? How about when the pollution is unreported?

Sen. PORTER: I will try to respond to that. Let's say that a spill which is unreported will generally be reported by the public then the Water Pollution Control Commission will go into action and investigate it and turn the report into the Attorney General for any action which would have to take place.

Sen. JACOBSON: I get the idea from your remarks that the Water Pollution Control Commission will not engage in any control function.

Sen. PORTER: You mean like having a regular, assigned control?

Sen. JACOBSON: Yes.

Sen. PORTER: No, Senator.

Sen. MORRISSETTE: I am very interested in this bill. Does the Committee consider the possibility that you may require insurance?

Sen. PORTER: The Committee looked into various methods of financing; one which we felt would answer our short term needs. We recognize many other things. We have been in research on methods of clean-up and into devices which will afford greater protection. We finally fixed onto requiring that oil-handling industry be bonded in the amount which would provide satisfactory clean-up in the event of a spill. This is an interim, short-term solution.

Amendment adopted. Referred to Committee on Finance.

SB 84

establishing a legislative committee to study scenic preservation measures and to recommend legislation to implement

the same and making an appropriation therefor. Ought to pass. Sen. McCarthy for Resources and Environmental Control.

Sen. PORTER: SB 84 was entered to establish a specific legislative study committee concerned with scenic preservation. One of the favorite sports or activities in New Hampshire is auto touring. Increased scenic (or visual) pollution is offensive to many — and the proposed committee is charged to review efforts to effect scenic preservation and recommend means to achieve the same.

I urge your favorable support of this bill. Thank you.

Sen. JACOBSON: I notice that you have instituted something that has not been normal practice. That is the establishing of legislative mileage for this. Up to this time, I believe last time all, except the Legislative Study Committee, got just the State mileage and I notice that you said that they are going to be conducting hearings. Will they be given legislative mileage on all occasions or how will this work out?

Sen. PORTER: I estimated that roughly \$700 plus \$725 would be required, if I used a legislative mileage figure, to attend various hearings for five members of this committee. I use legislative mileage because I thought that members of the committee that applied their time to attend these hearings should not only be reimbursed for their mileage but also for their meals. To keep the legislative action before the people, these hearings are held at night and I thought the members were entitled to receive at least their mileage and meals during this period of time.

Sen. JACOBSON: Has it not been practice with regards to anything we do in the Legislature, other than going to Concord, is that not always been under state mileage rather than legislative mileage?

The CHAIR would state that it is my understanding that legislative mileage is to be paid only to Concord. If hearings are held at other locations, it is on the basis of state employees' mileage regardless of how the bill is written.

Sen. KOROMILAS: Perhaps it's an error in print but I note that the Committee, the Chairman of the Senate and House Committees on Environmental Quality and Control are not aware of any such committee in the Senate.

Sen. PORTER: There is no such committee in the Senate as you are well aware. You might call it a joining of resources. Referred to Committee on Finance.

Adopted.

HB 138

expanding the substances controlled by the economic poisons law and broadening the powers of the commissioner to control said substances. Ought to pass. Sen. McCarthy for Resources and Environmental Control.

Sen. PORTER: HB 138 increases the control and use of substances controlled by the economic poisons law and broadens the powers of the Commissioner of Agriculture.

The term, "economic poison," is expanded to include plant regulator, defoliant and desiccant; also additional "active ingredients" are included.

These additions bring New Hampshire into line with other states that are now common practice.

The commissioner's powers are broadened to provide regulations in the interests of safety, handling, display, and disposal of these poisons. I urge your favorable consideration of HB 138.

Sen. SPANOS: Did the Commissioner of Agriculture appear?

Sen. PORTER: Commissioner Buckley did appear as did Mr. French, Mr. Huff and Rep. Green on behalf of the bill.

Adopted. Ordered to third reading.

PERSONAL PRIVILEGE

Sen. SNELL: Mr. President, Members of the Senate.

On Friday, March 12, 1971, I was informed that my bi-monthly news column will no longer appear in two local newspapers that serve my constituents.

In response to the editor's comments: "Serve Peterson Pabulum"

To the editor of the Farmington & Pittsfield News:

In your edition of March 4, you took simple, direct statements which had been made by me and Representative Ernest

Brown of Strafford and characterized them as "the same sick satirical nonsense concerning the need for oppressive new taxes."

Certainly you have the right to your opinion and the duty, as a newspaperman, to express it. However, neither the right nor that duty can properly be extended to rationalize your erroneous observations (if not deliberate misinterpretation) concerning Representative Brown's and my statements. Neither contained anything remotely suggestive of "sick satirical nonsense" as I would hope a man with your public responsibility would know well.

In an honest attempt to keep the people of our respective districts informed, Representative Brown and I reported the views we have been receiving in letters addressed to us. Is it your view that these attempts to secure the opinions of those we represent are "sick" or "nonsense"? I would hope not.

I cannot, of course, speak for Representative Brown, but it would appear abundantly clear that both he and I have received a considerable correspondence from our constituents and that both opposition to and support for a broad-based tax was expressed in this correspondence. In my own case, it happened that more supported the concept than opposed it. In any event, it is this expression of opinion (both for and against broad-based taxation) that I, and I am sure Representative Brown, wished to share with the public through out statements.

If this be "sick, satirical nonsense", make the most of it.

Senators, I'm indeed sorry my constituents will not have the opportunity to express their views concerning legislation written in my articles.

My first news column stated:

"The Door to District Four" is open wide to every citizen in all its towns. That's the way I said it would be when I campaigned for the Senate seat. The promise will be kept. I am vitally interested in knowing how you feel about current issues and will be pleased to hear any suggestions you may have for future legislation — ideas to help our state grow and prosper, to make it the best place possible for all its citizens.

I have been contacted by over 500 voters in my district through phone calls, letters and group discussions.

Today I ask each one of you to be the judge. "Power of the Press" vs. "There is nothing so powerful as truth."

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock.

Adopted.

LATE SESSION

Third reading and final passage

HB 77, relative to the powers of the Board of Nurse Registration, duties of nurses, and increasing certain fees.

HB 138, expanding the substances controlled by the economic poisons law and broadening the powers of the commissions to control said substances.

Adopted.

Sen. Koromilas moved the Senate adjourn at 1:25 o'clock.

Adopted.

Wednesday

17Mar71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

IN NOMINE PATRIS, ET FILII, ET SPIRITUS SANCTI.
AMEN.

"Three things are of the Evil One:

An evil eye;

An evil tongue;

An evil mind.

Three things are of God, and these three are what Mary told her Son, for she heard them in Heaven:

The merciful word,
The singing word,
And the good word.

May the power of these three holy things be on all men and women of Erin, *and their adopted sons and daughters*, for evermore. Amen."

(Traditional Irish Prayer, ex. "Go with God" by Jim Bishop.)

Pledge of Allegiance was led by Sen. Poulsen.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 102, establishing limitations on tuition charged residents by the Trustees of the University of New Hampshire. (Downing of Dist. 22 — To Education.)

SB 103, authorizing the State of New Hampshire to acquire and dispose of industrial facilities. (Smith of Dist. 3, Spanos of Dist. 8 — To Executive Departments, Municipal and County Governments.)

SB 104, providing standards for the marketing of maple syrup and authorizing the Commissioner of Agriculture to enforce these standards. (Townsend of Dist. 5 — To Recreation and Development.)

SB 105, relative to the issuance of property, liability, and automobile insurance. (Lamontagne of Dist. 1 — To Banks, Insurance and Claims.)

SB 106, relating to filing notices under the Timber Conservation Act and requiring an owner to furnish security for payment of the yield tax. (Smith of Dist. 15 — To Executive Departments, Municipal and County Governments.)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 63, creating an interim committee to study the problems of disposing of beverage bottles and cans. (Resources and Environmental Control)

HB 218, relative to fishing limits in Great Bay. (Resources and Development)

HB 309, relative to unemployment compensation. (Ways and Means and Administrative Affairs)

HB 303, to extend the jurisdiction of police in the apprehension of motor vehicle regulation violators to include semi-public parking lot. (Judiciary)

House Concurrence

SB 55, validating the marriage of Joseph and Anita Poulin.

House Non-Concurrence

SB 48, providing that offices of member of the General Court and delegate to a Constitutional Convention are incompatible.

COMMITTEE REPORTS

HB 21

relative to use of funds held by the Trustees of the Boscawen Academy in Boscawen. Ought to pass. Sen. English for Education.

Sen. ENGLISH: Mr. President, HB 21 has to do with use of funds held by the trustees of the Boscawen Academy in Boscawen. Information was supplied at the hearing that eight of the trustees of the Academy approved the bill and one does not. Although informed of the hearing on the bill, the opposed member did not attend and did not send any message to the Committee.

The bill would give to the trustees of the Boscawen Historical Society the handling of funds amounting to approximately \$200.00 per annum which derived from the fund.

Adopted. Ordered to third reading.

SB 68

authorizing the election of tax assessors in towns. Inexpedient to legislate. Sen. Jacobson for Executive.

Sen. POULSEN: SB 68 not only allows for tax assessors, it makes it mandatory for towns over 1,000 population. The busi-

ness of assessing property is actually a historic right of selectmen. If there is any question of that, the fact that selectmen are elected officials does away with any good of having elected tax assessors because again they can be voted out the next time around so the Committee felt this bill was not expedient to legislate.

Resolution adopted.

SB 76

establishing a State Science and Technology Office in the Office of the Governor, and making an appropriation therefor. Refer to Legislative Study Committee. Sen. Leonard for Executive.

Sen. S. SMITH: Mr. President, the Committee felt that this matter, being an important one, should be referred to Legislative Study Committee. What this bill would have done would be to set up an office to coordinate science and technology within state government, private industry and education within the Executive Branch of state government.

The opinion of the Committee was, due to the fact that there are no funds available for this at the present time from the federal level, that the so-called STS which the present office is being phased out, has nothing particularly coming along in this area immediately. It was the feeling of the Committee that although this may be and is a worthwhile endeavor, that it probably should be at the university level rather than in the Governor's Office. The Committee brings the recommendation in that it should go to further study over the next two years due to the fact that it is a fluid state, technological service.

Ordered to Legislative Study Committee.

SB 82

providing for the Australian and non-partisan ballot systems in the same election. Inexpedient to legislate. Sen. Poulsen for Executive.

Sen. POULSEN: SB 82 is primarily designed to allow some non-partisan offices to be on the same ballot as partisan offices. Primarily things like Library Trustee and Budget Committee. The Committee feels that any of these jobs are, to some extent, political. Particularly in a small town, they are judged to be stepping stones politically and there is almost no place where you can break one from another. Police Commissioners, Chief

of Police, things like that can all be argued both ways so the Committee felt that this was inexpedient to legislate.

Sen. SPANOS: Mr. President, I move that the words "Ought to Pass" be substituted for the Committee report "Inexpedient to Legislate."

Rarely do I disagree with the distinguished members of the Executive Departments, Municipal and County Governments Committee. (I haven't made up my mind yet whether this is good or bad.)

However, with regards to Senate Bill No. 82 "providing for the Australian and non-partisan ballot systems in the same election", I must dissent from the suggested recommendation of the Committee and ask this Chamber to overturn their report.

Under existing law, if a town adopts a partisan system for the electing of officers, all such town officers must be elected under this system. If a town is on a non-partisan system, all such town officers must be elected under this plan.

What this legislation would do is to allow towns to elect to have both a partisan ballot for the election of the vast majority of town officials and a non-partisan ballot for the election of a very small segment of its town officials, i.e. budget committee members (if not appointed by the Moderator) and the Library Trustee.

I happened upon this issue because of a situation which arose in my home town (Newport) which, at the 1970 Town Meeting, had voted to elect its budget committee members — and the question arose as to whether it would be by the Australian ballot or by the non-partisan ballot. Newport, at that time, had the partisan system of electing town officials. A check with some legal authorities disclosed that since Newport was on a partisan basis, the Budget Committee would also have to be so elected.

This I thought was not conducive to good government and consequently I sponsored this measure. It was not designed to cure a problem in Newport. The situation there merely put the "spot-light" on the issue. (I still support this principle even though Newport, at its 1971 Town Meeting, voted to elect all its officers by the non-partisan system.)

I feel that towns should have the right (if they so desire) to have partisan elections for some offices and non-partisan for others. This measure would perpetuate the partisan elections for those officers traditionally of a partisan nature, i.e. selectman, treasurer, clerk, etc. and gives to the town the right to elect Budget Committee members and Library Trustees (not traditionally partisan) on a non-partisan basis. The bill compromises the "politics" of the community with the "idealism" of the community.

I chose the Budget Committee and the Library Trustees to be elected on a non-partisan basis (to the exclusion of others) as they are not the kind of positions which should lend to partisanship. Also, under this system it would allow Independents and Government employees who are "Hatched-out" to run and serve their community's best interests. I feel that it will make for a broader participation of our citizenry in local government and this is essential to good government. Broader citizenship participation was the main reason this body supported several weeks ago, Senate Bill No. 48 having to do with making membership of the General Court and delegate to a constitutional convention incompatible. As a matter of fact, one Senator (who shall remain unnamed) said something like this on that occasion: The intention of this bill is to give an opportunity for other persons who are not individually involved to come together to deliberate and participate in government.

I should add that this legislation is not mandatory. A town must first adopt the system at its regular Town Meeting before it becomes effective. If they don't want it, they won't vote for it.

In conclusion, I would like to say that there may not be any great hue or cry for this bill, but neither was there for the Protestant Reformation.

I hope you will support my substitute motion.

Sen. JACOBSON: Senator, you talked about those offices that, by tradition, are political. Could you elaborate for me the politics of the Cemetary Commission?

Sen SPANOS: What I mean by "traditional" is that the New Hampshire Budget Law was enacted only about thirty or thirty-five years. We just put the Library Trustees on an elective basis about ten years ago. When I use the terminology,

"traditional" I mean for a long period we always elected town agents, town road agents and cemetery commissioners and what have you. But, in this area, the area of Budget Committee and Library Trustee, they haven't been so elected until recent times.

Sen. JACOBSON: Did you say that the budget matter is relatively a political matter in the towns?

Sen. SPANOS: No, I do not think so.

Sen. JACOBSON: Mr. President, I rise in opposition to the pending motion and I have a certain amount of fear because my colleague has a well-prepared speech and I do not. I think that if there were a crying need for this bill, there would have been more people at this hearing. There was no one at the hearing and we had to call our distinguished colleague to come and testify to the bill. At the present time, towns do have the option to go partisan or non-partisan and the Committee felt that this is the option that the towns ought to take; to go all the way on a non-partisan basis. Then, in fact, the quotation that my distinguished colleague said would be either more realiable, that is the wider participation of everyone on a non-partisan basis. So if that is the intent and trust, there is already a permissive legislation on the statutes. Therefore, the Committee could not find sufficient need. Where do we stop? Do we stop with Cemetery Commissioner, Fire Commissioner, Chief of Police, Trustee of trust funds? We did try and consider doing it in the reverse in which we would have the number of offices that would be voted on specifically stated but we got to the same problem — where do we stop?

Sen. SPANOS: Sen. Jacobson, the sponsor did show up after he had been called from the Finance Committee. Is that correct?

Sen. JACOBSON: Yes.

Sen. SPANOS: Was there any opposition to this bill?

Sen. JACOBSON: No.

Sen. S. SMITH: I rise in opposition to the pending motion. I believe that the Committee gave full thought to the bill. In effect, what we are doing by passage of this bill would be a fragmentation of a system throughout the state. You have some people on partially partisan ballot, partially non-partisan and so on.

One of the arguments which the distinguished senator from the Eighth District brought forth was that having this you would have more non-partisan ballots. In my home town of Plymouth, we had a partisan ballot for many years. This excluded a number of people of a minority party from holding office because of the holding of caucuses. By the adoption of the non-partisan ballot for the total town, we still have some participation from that minority party. It is my consent feeling that having a non-partisan ballot, in keeping that law on the books, makes for a better adoption and a clearer choice between the voters in a partisan and non-partisan system within their town. By adopting a non-partisan ballot, I think you get greater participation.

Division vote taken, the result being 15 Nays and 7 Yeas, the motion was lost.

Resolution, inexpedient to legislate adopted.

SB 16

relative to the establishment of the position and salary of the associate justices of the Nashua district court. Ought to pass with amendment. Sen. Leonard for Judiciary.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

An Act
relative to the establishment of the position and
salary of the associate justice of the
Nashua district court.

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Associate Justice. Amend RSA 502-A by inserting after section 502-A:3-a the following new section: 502-A:3-b Associate Justice, Nashua District Court. The Nashua district court in addition to the justice and special justice shall have one associate justice appointed and commissioned by the governor, with advice and consent of the council, as prescribed by the constitution, who shall have the same qualifications and powers as prescribed for the justice.

Amend section 2 of the bill by striking out the same and inserting in place thereof the following:

2 Salary, Associate Justice. Amend RSA 502-A:6 as inserted by 1963, 333:1 and amended by 1965, 138:1, 294:1, 1967, 193:1, 438:1; 1969, 124:3, 4 and 5; and 1970, 14:1 and 2 by inserting after paragraph I-a the following new paragraph: I-b Salary of Associate Justice, Nashua District Court. The annual salary of the associate justice of the Nashua district court shall be an amount equal to thirty percent of the salary paid to the justice as provided in paragraph I.

Sen. NIXON: Mr. President, Senate Bill 16 was sponsored by Senator Richard W. Leonard of Nashua.

In original draft, this bill provided for the addition of two Associate Justices to the staff of the Nashua District Court, each to be paid at a salary equal to 50% of the salary of the Justice of that Court, which is now \$15,950 and will increase to \$19,300 on January 1, 1972. Present statutes already provide for the Justice of the Nashua District Court to be assisted in the performance of his duties by a Special Justice, who was sworn in on February 5, 1971.

Senate Bill 16 comes before you today from the Senate Judiciary Committee with the report "Ought to Pass with Amendment." The proposed amendment printed on page 26 of yesterday's and page 43 of today's *Journal* would do away with the provision for two new Associate Justices which appeared in the original bill, and limit the new appointment to one additional Associate Justice, and would also decrease the salary of the Associate Justice from 50% to 30% of the salary of the Justice.

Frankness compels the disclosure that this bill has had a somewhat turbulent legislative history, not unmarked by considerations of personalities, local politics, and the suggestion to the Committee in hearing, and to various individual members of the Committee outside the hearing process, that no real need for an additional Associate Justice of the Nashua District Court would exist if the present Justice, who is obliged by law to serve on a full-time basis, actually served "full time" in terms of at least a 40-hour work week. The Committee does not have the power to serve as a timekeeper for our judicial system, nor do I believe the Committee would choose to exercise such power even if it had it. Suffice it to say, that the matter of nominating and confirming judges of the District Court System is within

the province of the Governor and Council, and the matter of judges' dedication to the efficient operation of Courts, once sworn into office, is, under our present system, pretty much a matter of their own consciences. This is true at all levels and in all types of Courts in New Hampshire.

Whether our Courts should be unified and operated under the superintending control of the Chief Justice of the Supreme Court, as is the case in many other states, and one of the trends in the movement for Court reform which is presently sweeping the country, is perhaps a matter for discussion on another day.

Based on the statistics and other evidence presented to it in formal fashion, I think the Committee's opinion can be fairly represented in the statement that considering the personnel vacancy caused by the decease of the late Justice Antoine Guertin in August of 1970, and the fact that Nashua District Court has only one courtroom, adequate judicial service in the circumstances appears to have been rendered to the people of Nashua by all parties involved.

To briefly recount the support and opposition situation as to this bill, it was supported by the Justice and the Clerk of the Nashua District Court, in addition to the sponsor of course, and also by Executive Councilor Bernard A. Streeter, Jr. and Mr. Richard A. Stahl, Chairman of the Nashua Area Planning Council of the Governor's Commission on Crime and Delinquency. It was opposed by a Representative from Nashua, by an attorney who resides in Nashua, and by the Administrative Committee of the District and Municipal Courts. The Judiciary Committee deferred final action on the bill at the request of the Administrative Committee of the District and Municipal Courts, and also of the Nashua Bar Association, so that the views of these bodies could be considered. The Administrative Committee concluded that the present case load does not warrant an Associate Justice, either on a full-time or a part-time basis, and recommended that when the case load in the Nashua District Court reaches 13,000-15,000 cases annually, the need for a full-time Associate Justice should be reviewed. The Nashua Bar Association considered the matter at two different meetings, I believe, and finally reached the conclusion, by a vote of approximately 2 to 1 of the members present, that the Nashua District Court should consist of two full-time Judges, rather than one full-time Judge and two part-time Judges, as would

be the case if Senate Bill 16 as now amended, should pass. I think it fair to say that our Committee did not reject out-of-hand or discount either the recommendation of the Administrative Committee or that of the Nashua Bar Association. However, the practical difficulty with the position of the latter body is that the Special Justice vacancy, a part-time position, and already provided for by law, was filled before the report of the Bar Association was received by our Committee.

Some of the statistics provided in the very informative and detailed report of the Administrative Committee of the District and Municipal Courts were, I believe, considered significant by the Committee. For instance, the total of all cases entered in the Nashua District Court in 1970 was 9,308 cases, approximately a 30% increase in total cases over the figure for the year 1969. In addition, there appears to exist a backlog of approximately 1,000 civil cases, that is, cases involving private rights, claims for damages, and the like between citizens in the Nashua area, and only 27 cases of this type were disposed of in 1970.

Some comparisons with the Manchester District Court may be in order. The Manchester District Court is presently staffed by a full-time Justice and a full-time Associate Justice, together with a part-time Special Justice. The Manchester Court services a population totalling 87,754 people. The Nashua District Court, which serves the city of Nashua as well as the towns of Hudson, Hollis and Litchfield, provides District Court facilities for approximately 70,494 people. These figures were taken from the 1971 New Hampshire Manual for the General Court, and to the extent that they are based on our most recent Federal Census, I cannot vouch for their accuracy.

As stated earlier, the total case load for the Nashua District Court in 1970 was 9,308 cases. According to the Administrative Committee, the Manchester District Court had approximately 19,000 cases before it in the year 1969; however, according to statistics provided by the Justice of the Nashua District Court, 8,743 of these cases were handled administratively by the Manchester Parking Violations Bureau, leaving a little better than 10,000 cases as the actual case load of the Manchester District Court during that year. In this respect, again according to the Justice of the Nashua District Court, there are approximately 21,000 motor vehicle parking violation cases awaiting the drawing of complaints in the Nashua District Court since

Nashua does not have a separate facility for handling routine parking violations. In addition, data provided to our Committee, again by the Justice of the Nashua District Court, indicated that in 1967, that Court had a total case load of 4,797, and so the 1970 case load of 9,308 cases, represents approximately a 90% increase in case load in four years. No increase in the number of judicial personnel available to handle that case load occurred in that period, I believe.

In summation, after considering all the evidence presented on this bill, both pro and con, I think the Committee felt that the population and case load statistics made out a case for increased judicial personnel in the Nashua District Court. Since the prior appointment of a part-time Special Justice rendered the otherwise sensible suggestion that the Court be staffed by two full-time judges somewhat moot, the Committee felt that the authorization of one part-time Associate Justice was warranted. The suggestion by the Administrative Committee that no action be taken in this respect until the present case load of 10,000 reaches 13,000-15,000, was seriously considered. However, at the rate Nashua's case load is increasing, this could happen in one year, and the legislature may not meet again for two years. In addition, the history of judicial reform, if you can call it that in New Hampshire, has been described by some as "locking the barn door after the cows are out." Better to have the judicial personnel in advance of the problems caused by tremendous case load increase, than vice versa. "Justice delayed is justice denied."

Again, Mr. President, the report of your Judiciary Committee on Senate Bill 16 is "ought to pass with amendment."

Amendment adopted. Ordered to third reading.

Sen. Spanos moved the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock in honor of St. Patrick's Day, and all the sons and daughters of Erin, including Sen. O'Lamontagne.

Adopted.

LATE SESSION

Third reading and final passage

SB 21, relative to use of funds held by the Trustees of the Boscawen Academy in Bocawen.

SB 16, relative to the establishment of the position and salary of the associate justice of the Nashua District Court.

Adopted.

Sen. Snell moved the Senate adjourn at 1:48 o'clock.

Adopted.

Thursday

18Mar71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

O GOD our Father, grateful for the many resources You have provided in our State and Nation, grant us the unselfishness and ingenuity to rightfully use these resources for the common good. Give us faith for today and hope for tomorrow so that we may effectively serve You and our constituency. As we face these exciting days, grant us the vision to see Your will and the courage to attempt it. May the faith and service and love that Christ possessed and gave so inspire us, strengthen us, and encourage us in all that we do. Amen.

Pledge of Allegiance was led by Sen. Nixon.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 107, to reorganize the commission on interstate cooperation and making an appropriation therefor. (Jacobson of Dist. 7 — To Executive Departments, Municipal and County Governments.)

SB 108, increasing the membership of the barbers' board. (Smith of Dist. 3 — To Executive Departments, Municipal and County Governments.)

SB 109, legalizing the annual meetings of the Town of Goffstown, March 9, 1971. (Nixon of Dist. 9 — To Executive Departments, Municipal and County Governments.)

HOUSE MESSAGE

House Amendment to Senate Bill

(See Permanent House Journal for Amendment)

SB 54, relative to the 1971 appropriation for the division of parks and providing for time and one half pay for overtime work by employees engaged in snow-farming.

Sen. R. SMITH: I move that the Senate concur with the amendment to SB 54. The House has amended SB 54 by striking out the section that provides for overtime payments for people engaged in snow-farming. They further amended the bill by adding the section changing the appropriation to the State Library system. If it were not for the timing involved here, it would be my objective to non-concur with the House. The two principal sections of the bill deal with the help that the Parks Department has for the ski season, which is coming to a close but may enjoy three or four more good weekends. It is my understanding that the Department would be out of funds today.

The second section of the bill contains some consultant fees, which are also necessary in order that we pay for SJR 3, which is on the table in the Finance Committee.

Adopted.

HCR 16, inviting Alan B. Shepard to address the General Court.

Referred to Rules and Resolutions.

SUSPENSION OF THE RULES

Sen. S. SMITH: I move that the rules be suspended to allow for a report from the Committee on Rules and Resolutions at this time. The members of the Rules Committee were made aware of this resolution coming into the Senate today inviting

Alan B. Shepard to be here on April 15. It is necessary that the invitation go out and I would hope that the Senate would go along with the report of the Committee on Rules and Resolutions with their acceptance of this.

Sen. SPANOS: I am in favor of the Suspension of the Rules, Mr. President. I think it's a good idea in light of the fact that it cost us enough to get him up there.

Adopted.

COMMITTEE REPORT

HCR 16

inviting Alan B. Shepard to address the General Court.
Resolution adopted. Ordered to third reading.

ENROLLED BILLS

HB 9, prohibiting the use of motor boats on Chocorua Lake.

HB 21, relative to use of funds held by the Trustees of the Boscawen Academy in Boscawen.

HB 77, relative to the powers of the Board of Nurse Registration, duties of nurses, and increasing certain fees.

HB 136, to authorize use of fictitious names in certain proceedings in equity.

HB 138, expanding the substances controlled by the Economic Poisons Law and broadening the powers of the commissioner to control said substances.

SB 35, eliminating certain duties of the Secretary of State.

SB 55, validating the marriage of Joseph and Anita Poulin.

Sen. Provost
for the Committee

COMMITTEE REPORTS

SB 18

relative to filing dates for nominations in certain cities and towns. Ought to pass with amendment. Sen. S. Smith for Executive.

AMENDMENT

Amend section 1 of the bill by striking out the same and inserting in place thereof the following:

1 Change of Filing Dates. Amend RSA 59:73 (supp) as amended by 1965, 197:1 by striking out said section and inserting in place thereof the following:

59:73 Adoption of Non-Partisan Ballot System.

I. Towns may adopt a non-partisan ballot system, as hereinafter provided, for the election of town officers under an article in the warrant for any annual or special meeting at which action is to be taken, and may rescind such action in like manner. If such ballot system is adopted by a town, the system shall not be in effect in said town until the town meeting next following the meeting at which such action is taken. In towns where this ballot system is in force, a plurality vote shall elect.

II. The town clerk shall prepare the ballots and all candidates for office shall file their declarations of candidacy or petitions of nomination with the town clerk;

(a) In towns of less than ten thousand population no earlier than thirty-five days before and no later than five o'clock in the evening of the second Monday next preceding the day of the election;

(b) In towns of ten thousand population or more no earlier than forty-five days and no later than twenty-one days before the day of the election.

Sen. S. SMITH: Mr. President, the amendment is found on page 35 of today's Legislative Report hearing. The original bill stipulated that filing dates for town offices, selectmen, and so forth would be pushed back, under the present law, thirty-five days preceding and end seven days before Town Meeting. Under this bill, it would have been forty-five days and twenty-one days before the Town Meeting. In so doing, the purpose of this bill, as introduced, is to make it possible for people in towns to become familiar with the candidates before the election.

It was said that often, people will come into a town, run under a similar name to those who have lived in the town for many years and it would not be the same person. The Committee felt, on the other hand, that in many towns, people don't

really get stirred up about Town Meeting and about election of selectmen until a short period of time before the Town Meeting takes place. Therefore, the purpose of this bill was to leave it as is for the small towns, but in the case of large towns where communication is not as great, we thought the bill had merit and therefore, we amended the bill allowing 10,000 or more and leaving it the same for towns less than 10,000.

Amendment Adopted. Ordered to a third reading.

HB 31

relative to the filing of annual returns, false statements relative thereto and reservation of a name by a foreign corporation. Ought to pass with amendment. Sen. Leonard for Executive.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

relative to filing of annual returns by corporations and monthly returns of quantity of alcoholic beverages sold.

Amend the bill by striking out section 3 and inserting in place thereof the following:

3 Penalty of Perjury. Amend RSA 181:24 by striking out in line 3 the word "oath" and inserting in place thereof the following (penalty of perjury) so that said section as amended shall read as follows: 181:24 Reports. Each manufacturer and wholesaler of beverages within the state shall, on or before the tenth day of each month, furnish to the commission, on a form prescribed, a statement under penalty of perjury showing the quantity of beverages sold under an off-sale permit, during the preceding calendar month, within the state.

4 Effective Date. This act shall take effect sixty days after its passage.

Sen. JACOBSON: Mr. President, HB 31 amends the matter of the annual returns of corporations with respect to taking them under oath. The Secretary of State's Office has experienced a great deal of difficulty with regards to sending these and other related problems. Therefore, they had this bill entered, which

would change it from oath, which would have to be subscribed by a notary, to the penalties of perjury.

When this bill was in the hands of the Committee, it was brought to the attention of the Committee that we have a similar situation with regards to the Liquor Commission. The amendment does exactly the same thing for reports to the Liquor Commission as it does for reports for corporations to the Secretary of State. It allows the reports to be put in under penalty of perjury instead of the notarizing oath presently on the statutes.

Sen. MORRISSETTE: Would this mean that corporations, in the future, would submit a balance sheet that would give some information?

Sen. JACOBSON: I do not know the condition of the submission. All this bill does is allow them to submit them under penalty of perjury, which means that if a false statement is found in a return of the corporation, they could then be prosecuted under the penalty of perjury.

Sen. MORRISSETTE: You are referring to a statement of their balance sheet?

Sen. JACOBSON: Yes. Their returns which tells their condition, but it does nothing to the methodology or form of the statement. Only to this question of subscribing under oath.

Sen. MORRISSETTE: But they still will not need to reflect any degree of information or any accuracy?

Sen. JACOBSON: No more than is required under the law now.

Sen. MORRISSETTE: They would be at least reliable?

Sen. JACOBSON: If it should be proven to be false, then they would be subject to the penalty of perjury.

Sen. KOROMILAS: Is it possible to prosecute someone on a report that was not made under oath for perjury?

Sen. JACOBSON: Yes, as the Committee was led to understand.

Sen. MORRISSETTE: I would like to speak in favor of the motion. I experienced for years very serious problems. I am

sure that businesses in that the balance sheets that have been submitted to the Secretary of State are questionable as to whether or not they have given any reliability in their statements. Anything along the line of improving them would be a tremendous boost.

At the present time, you try to get the statement and I found that in 90 percent of the cases, they are extremely unreliable; they are incomplete and in many cases, I found to be so untrue that where you have a statement that shows some equity, in reality, the business would be in very serious financial condition. As a result of information that is inaccurate, you would get seriously hurt. I would like to speak in favor of that motion as a help towards improving a very bad situation.

Sen. KOROMILAS: This does not affect the balance sheet; this only has to do with the requirement of a note from a notary public?

Sen. JACOBSON: This has absolutely nothing to do with the method or the nature of the returns. It relates only to the truth of the returns. May I also add with regards to the question that our federal income tax returns are based on exactly the same procedure; that is, under the penalty of perjury you sign your name.

Adopted. Ordered to third reading.

HB 106

to clarify the definition of subdivision. Ought to pass with amendment. Sen. Jacobson for Executive.

AMENDMENT

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Definition of Subdivision for Zoning. Amend RSA 36:1, VIII by striking out said paragraph and inserting in place thereof the following: VIII. "Subdivision" means the division of a tract or parcel of land into two or more lots, tracts, or parcels for the purpose, whether immediate or future, of sale, rent, lease, building development, or any other reason; provided, however, that sale or other conveyance which involves merely an exchange of land among two or more owners and which does not increase the number of owners, and on which no sewage

disposal system is to be constructed shall not be deemed a subdivision for the purposes of this chapter. Without limiting the generality of the foregoing, subdivision shall include re-subdivision, and, in the case of a lot, tract or parcel previously rented or leased, the sale, condominium conveyance, or other conveyance thereof.

3 Effective Date. This act shall take effect sixty days after its passage.

Sen. JACOBSON: HB 106 relates to the question of bringing condominium developments under subdivision regulation with respect to the Water Pollution Control Commission authority as established in Chapter 147. There were some questions raised in some communities whether in fact a condominium would come under the control of the Water Pollution Control Commission with regards to percolation tests and the like. This was the original HB 106 and it was amended to some extent but the general content of that was the same as it came to us. When it came to us, we agreed with the concept as presented but also added exactly the same language in Chapter 36 with respect to the general zoning and planning authorities with respect to subdivision — what a subdivisions means so that there would not be any possibility of a condominium developer saying, “Well, I don’t come under 147, I want to come under Chapter 36.” The division regulation is balanced both in the section dealing with Water Pollution and Control and in the general regulation with respect to subdivision.

Amendment Adopted. Ordered to third reading.

HB 22

relative to shooting animals hunted by dogs. Ought to pass. Sen. Koromilas for Recreation and Development.

Sen. KOROMILAS: HB 22 to explain the terms used in this bill, what is a treed animal? It is one that is caught in a tree. Under the present law, anyone coming upon this animal can shoot the animal. This law limits the shooting of the game or fur-bearing animal to the person who owns the dog and those in that same party.

Adopted. Ordered to third reading.

HB 33

relative to fishing without a license by patients at the Dartmouth-Hitchcock Mental Health Center. Ought to pass. Sen. Koromilas for Recreation and Development.

Sen. KOROMILAS: HB 33 is more serious. At the present time, there is only one non-governmental agency that allows inmates to fish free of charge. This bill would add the Dartmouth-Hitchcock Mental Health Center. Any patient or inmate at that particular center could fish without a license. There are only twenty-eight patients at the hospital and it's contemplated that only twelve will do fishing under the supervision of the staff.

Some question was raised as to whether this would open Pandora's Box and every hospital may come in and ask whether their patients could fish free of charge. This is limited to the mental side. It has been found that people who fish, benefit from it in a therapeutic sense. Only two hospitals in this state have mental in-patients, that is the State Hospital and the Hitchcock and the Committee felt that this does not open Pandora's Box.

Adopted. Ordered to third reading.

HB 57

prohibiting the use of a crossbow in taking fish, wild birds or wild animals. Ought to pass. Sen. Koromilas for Recreation and Development.

Sen. KOROMILAS: At the present time, the following items cannot be used: stickups, spears, grappling hooks, snatch hooks, eel wires, eel plugs. This bill only adds the word, "crossbow." As you all know, a crossbow is nothing more than a bow which accelerates the arrow and when the arrow goes through the animal at such a great velocity, it does not kill the animal. When you do shoot with a bow and arrow, it does kill the animal almost immediately but a crossbow, because of the speed, does not.

Adopted. Ordered to third reading.

HB 86

relative to special license for taking birds and animals. Ought to pass. Sen. Porter for Recreation and Development.

Sen. PORTER: HB 86 provides for the deletion of the \$5.00 fee for the license for people engaged in the banding of birds. Several citizens throughout the state receive this license. We feel that the license fee should be dropped because they are doing a service for the state by studying and tracing the habits of birds.

Adopted. Ordered to third reading.

HB 58

authorizing persons seventy years of age or over to hunt, fish and take certain marine species without a license. Inexpedient to legislate. Sen. Koromilas for Recreation and Development.

Sen. KOROMILAS: Under the present law, any person who is over seventy can go for a fishing and hunting license free of charge. This bill does not require a license for fishing and hunting. All they have to do is to show their birth certificate or something to prove that they are over seventy years of age. The Committee felt that due to the fact that when you go to get a license, you receive a book which tells you of the different hunting and fishing seasons that, if a person doesn't have to go to get a license, he never sees the book. This might lead to people going out and fishing or hunting at any time, regardless of the stipulated season, simply because they felt they had that right. The Committee felt this was a dangerous change of policy. They might have a vision deficiency or some other detriment and that is why we felt that HB 58 was inexpedient to legislate.

Resolution Adopted.

PERSONAL PRIVILEGE

Sen. POULSEN: While I realize the *Caledonian-Record* is a Vermont newspaper published in St. Johnsbury, it is also a very important paper to many of the residents of Senate District No. 2.

The March 16th issue of the *Caledonian* contained information that was almost completely true regarding the Littleton Town Meeting. The thing that the *Caledonian* didn't do in this particular case was to explain the other side of the problem. My comments are directed, not against this very good newspaper, but against the slanted material that was given them in the interview with a former selectman of Littleton.

Sen. Spanos moved the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until Tuesday, next, in honor of Governor Thomas E. Dewey who failed twice to become "King" but who succeeded twice the "King Maker" and in tribute to Whitney Young, who only asked the "King's" understanding and benevo-

lence for his people. Also in honor of the thirty-ninth birthday of the distinguished senator, Sen. Nixon.

Adopted.

LATE SESSION

Third reading and final passage

HCR 16, inviting Alan B. Shepard to address the General Court.

SB 18, relative to filing dates for nominations in certain cities and towns.

HB 31, relative to filing of annual returns by corporations and monthly returns of quantity of alcoholic beverages sold.

HB 106, to clarify the definition of subdivision.

HB 22, relative to shooting animals hunted by dogs.

HB 33, relating to fishing without a license by patients at the Dartmouth-Hitchcock Mental Health Center.

HB 57, prohibiting the use of a crossbow in taking fish, wild birds, or wild animals.

HB 86, relative to special licenses for taking birds and animals.

Adopted.

Sen. Porter moved the Senate adjourn at 1:56 o'clock.

Adopted.

Tuesday
23Mar71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by guest chaplain, Rev. Lewis Flagg, Jr. of the Brentwood Baptist Church.

Heavenly Father, we look to You today as the author of eternal light and of eternal life to all who accept your son Jesus Christ. We praise You for your precious promises . . . the promise of peace, the promise of provision, the promise of protection, the promise of Your presence and the promise of Your power.

Today we ask that men's hearts everywhere may be in tune with Your will. As we see evidence of unrest and dissent in our state and in our nation, we ask that hearts might be changed by coming to a right relationship with You and that the love of Christ may prevail and men first of all may seek to know and to do your will. God grant to us stability amidst the pressures of our times.

Guide the thinking of all of those who deliberate on the affairs of our state. May each one think of those around him, of others who are depending on him and may all remember that Our Savior taught us to do unto others as we would have them do unto us. So fill our hearts and minds today and in the days to come for we ask it in the precious name of Jesus Christ, our Lord and Savior. Amen.

Pledge of Allegiance was led by Sen. Brown.

HOUSE MESSAGED BILLS
First, second reading and referral

HB 114, relative to the power of Franconia College to grant degrees. (Education)

HB 149, relative to the dollar limitation on recovery in wrongful death actions. (Judiciary)

HB 203, relative to professional services. (Judiciary)

HB 249, relative to the definition of permanently and totally disabled. (Ways and Means and Administrative Affairs)

HB 273, relative to the power of Pierce College for Women to grant degrees. (Education)

HB 277, relative to the power of New England Aeronautical Institute to grant degrees. (Education)

HB 286, appropriating additional funds for women's dormitory at the New Hampshire Technical Institute in Concord. (Finance)

HB 287, permitting the Director of Welfare to manifest payment of non-federal funds for the work incentive program. (Public Health, Welfare and State Institutions)

HB 292, conveying a certain portion of land which was formerly part of Silver Lake in the Town of Madison to J. Donald Hayes and Dorothy V. Hayes.

HB 304, relative to requirements for obtaining a license for granting small loans. (Banks, Insurance and Claims)

HB 334, relative to the commitment of drug dependent persons. (Public Health, Welfare and State Institutions)

HB 345, to increase the permissible maximum dollar limit of certain force account contracts. (Public Works and Transportation)

HB 339, relative to the construction of area schools and additions thereto. (Education)

HJR 26, to reimburse Reginald Pelkey for damage done to his automobile and making an appropriation therefor. (Banks, Insurance and Claims)

HOUSE CONCURRENCE

SB 31, relative to taking a motor vehicle without the owner's consent.

SB 24, relative to state bridge and town bridge aid.

NON-CONCURRENCE BY THE HOUSE AND REQUEST FOR COMMITTEE OF CONFERENCE ON

HB 31, relative to the filing of annual returns, false state-

ments relative thereto and reservations of a name by a foreign corporation.

The Speaker has appointed as members of said Committee of Conference on the part of the House of Representatives, Reps. MacDonald, Dunlap and Keefe.

On motion of Sen. Jacobson, the Senate voted to accede to the request for a Committee of Conference.

The Chair appointed as members of said Committee on the part of the Senate, Sens. Jacobson and Leonard.

ENROLLED BILLS REPORT

HB 22, relative to shooting animals hunted by dogs.

HB 33, relating to fishing without a license by patients at the Dartmouth-Hitchcock Mental Health Center.

HB 57, prohibiting the use of a crossbow in taking fish, wild birds or wild animals.

HB 86, relative to special licenses for taking birds and animals.

SB 24, relative to state bridge and town bridge aid.

SB 31, relative to taking a motor vehicle without the owner's consent.

SB 54, relative to the 1971 appropriation for the division of parks and revising the appropriation for the state library for title IV-A funds.

Sen. Provost
For the Committee

COMMITTEE REPORTS

HB 16

permitting charitable organizations to hold raffles. Ought to pass. Sen. Lamontagne for Judiciary.

Sen. LAMONTAGNE: Mr. President, at the hearing there appeared many in favor of HB 16: the American Legion and our good Sisters of Charity. At the same time, we only had one person who was in opposition. The only thing that this bill does is to legalize something that has been going on for years, that is some of these tickets that are going around on small raffles. Actually, it is just legalizing raffle tickets.

Sen. JACOBSON: Did I understand it that there was only one person in opposition?

Sen. LAMONTAGNE: Yes, there was one person in the hearing but there were also some members of the Committee that were in opposition.

Sen. JACOBSON: Did I understand you to say that what we were doing was legalizing something that is already going on?

Sen. LAMONTAGNE: Yes. It has been going on for years.

Sen. JACOBSON: Do you think that that is the way we should process our legislation?

Sen. LAMONTAGNE: Senator, personally my experience is that many charitable organizations have these raffles and have had them for years and I don't see any harm in them.

Sen. JACOBSON: Senator, you didn't answer my question. Philosophically, do you consider it proper procedure to legalize illegal activities simply because they are going on?

Sen. LAMONTAGNE: Yes, because what we are doing is enacting it into law.

Sen. JACOBSON: Thank you very much.

Sen. LEONARD: Mr. President, I was there at the hearing when this was presented. This bill was considered by the House, a sub-committee was appointed, they studied it and made two or three changes, in my opinion as proper safeguards, that it has to be a charity or similar type organization. For example, the charity has to be incorporated and it cannot sell tickets for another organization out of state so the money has to stay in the state.

It was well thought out by the sub-committee and I don't think we should pass the bill in the committee because it's something that has been done anyway and I don't think that that was considered by the Board.

Sen. MORRISSETTE: I don't think this bill would be questioned and I would like to speak in favor of it. I consider previous sanction of the areas where this so-called breaking of the law affects to be a basis for passage. The breaking of this type of law is similar to other antiquated laws that make no

sense in modern days. In reality, it is just people interchanging with each other and helping others in worthwhile causes. I hope the Senate will be broad-minded and regard this as what it is. It is not really breaking the law when a church or school tries to pick up a few dollars.

Sen. JACOBSON: Sen. Morrisette, you said that this was not a breaking of the law. Could you distinguish for me when the breaking of the law becomes the breaking of the law?

Sen. MORRISSETTE: I think we have been neglectful in not recognizing the so-called offense. Due to the fact that society has tolerated this minute infraction, it obviously was not offensive to the society in general and we should have yielded to this before.

Sen. JACOBSON: Would you agree that if there is multiple infraction of the law, that the law should then be changed?

Sen. MORRISSETTE: It depends what you are referring to. I would like to illustrate in saying that if you placed a stop sign where there wasn't any street, there would not be any sense in stopping. I am thinking along the area of minute, archaic laws.

Sen. JACOBSON: I think you said that the present law is antiquated. Would you agree that we should eliminate a whole series of antiquated laws where we have whole series of infractions?

Sen. MORRISSETTE: Not because of the infractions but because if you have a law that is absolutely senseless, there is no point in keeping it on the books.

Sen. NIXON: I think the Committee's emphasis was wrong in recommending the bill "ought to pass" because this matter is already being done legally. The one testimony against the bill was by the Director of the Christian Civic League and I do believe that the Committee considered carefully his indication that bills of this nature tend to show that society may be too willing to use this method to raise needed revenue instead of everyone paying his fair share. The Committee was also impressed that two Sisters of Charity appeared on behalf of the bill as needed for their support but they are apparently not supported by their organizations nor are they eligible for social security.

Sen. SPANOS: I rise in support of the Committee report. This state has sanctioned and does support the biggest "raffle" of them all, i.e., the Sweepstakes Program. The funds we raise are used for laudable purposes.

We cannot now, in good conscience, turn around and prohibit charitable organizations from holding raffles. They, too, utilize the funds for good and decent purposes and we should support this effort lest we appear contradictory.

Adopted. Ordered to third reading.

HB 49

relative to the unauthorized removal of national or state flags while they are on display. Ought to pass. Sen. English for Judiciary.

Sen. ENGLISH: Mr. President, HB 49 deals with a matter which came up in the past year which had to do with the improper lowering of flags. The bill is sponsored by the American Legion, introduced in the House by Rep. Sawyer and Hubert O'Neil of the American Legion spoke in favor of the bill. There were no opponents and it simply takes care of the willful and malicious lowering or removal from the staff of the flag.

Adopted. Ordered to third reading.

SJR 9

in favor of John Dukette of Andover. Inexpedient to legislate. Sen. Poulsen for Public Works and Transportation.

Sen. POULSEN: Mr. President, the Committee on Public Works and Transportation on SJR 9 concerns the sum of \$1,982.50 to replace a lost water supply in the Town of Andover between Routes 11 and 4. Apparently the salt from raising the grade of the road got into Mr. Dukette's well. The state looked at it and replaced it with another well of equal quality. This second well ran dry after a period of time and that is when Mr. Dukette installed an artesian well. The contention was that his well was replaced with one equally as good as the one which he had lost so the Committee moved that it is inexpedient to legislate.

Sen. JACOBSON: Mr. President, I move that SJR 9 be made a special order for Tuesday, March 30 at 1:01 o'clock. I apologize to the members of the Senate that I did not read that

this was coming out and therefore I am not prepared to speak on it. I want to speak in favor of it because I believe that it is a matter of justice. This same resolution passed the Senate last month and got tangled up in the House. I would like to have an opportunity to prepare a speech on it.

Sen. LAMONTAGNE: Being a member of the Committee, I would have no objection to the Senator looking into it a little more. Personally, we have gone into it and when we found out that when the state did put in the replacement and it went dry, we did not feel that it was a result of the salt.

Sen. LEONARD: Did the Committee consider the period when he had a well with salt water in it before it went dry?

Sen. LAMONTAGNE: Well, that had been corrected by the state because of another well that was given to him and that went dry too.

Sen. LEONARD: How long a period did he have salt in his well?

Sen. LAMONTAGNE: I really don't know.

Sen. MORRISSETTE: Will you be able to describe how the first well was constructed?

Sen. LAMONTAGNE: We can get more information from the engineers and submit it next Tuesday.

Sen. MORRISSETTE: The only question I would have is the size of the tank and how deep it is.

Motion to make SJR 9 a Special Order Adopted.

Sen. Spanos moved the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock.

Adopted.

LATE SESSION

Third reading and final passage

HB 16, permitting charitable organizations to hold raffles.

HB 49, relative to the unauthorized removal of national or state flags while they are on display.

Adopted.

Sen. R. Smith moved the Senate adjourn at 1:41 o'clock.

Adopted.

*Wednesday**24Mar71*

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

O GOD, our Father, who hast set us down in this world of things and people, where our attention is distracted by a thousand sights and sounds, keep us from being overwhelmed by what we call realities, that we may hold firm to the great reality of Thy Presence. Keep before us the lessons of history and the truth of Thy Word that we may be faithful in our stewardship of public office. Grant us the courage to face life's harsh realities and the strength to build a better world governed by Thy precepts and our righteous endeavors. Amen.

Pledge of Allegiance was led by Sen. English.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 110, providing that certain abandoned railroad rights of way be retained for recreational use and a study be made to develop plans for a feasible system of trails and providing an appropriation therefor. (Tufts of Dist. 23 — To Resources and Environmental Control.)

SB 111, permitting any town to account on a fiscal year basis, permitting semi-annual tax collection in all towns and providing for an optional town meeting date. (Jacobson of Dist. 7 — To Executive Departments, Municipal and County Governments.)

SB 112, relative to fingerprinting all state employees. (Lamontagne of Dist. 1 — To Judiciary.)

SB 113, to increase the penalties for reckless driving and driving while intoxicated. (Jacobson of Dist. 7 — To Judiciary.)

SB 114, increasing the penalties for reckless operation of a motor vehicle. (Jacobson of Dist. 7 — To Judiciary.)

SB 115, to require pedestrians to wear reflectorized material on their clothing when walking on the roadway at night. (Jacobson of Dist. 7 — To Judiciary.)

SB 116, to prohibit individuals from soliciting rides or business on or in proximity to the traveled portion of a street or highway. (Jacobson of Dist. 7 — To Judiciary.)

SB 117, relative to the form of drivers' licenses, and making an appropriation therefor. (Marcotte of Dist. 20 — To Public Works and Transportation.)

SB 118, to permit state liquor stores to open on Sunday and to provide additional compensation to employees therefor. (Morrissette of Dist. 16 — To Ways and Means and Administrative Affairs.)

SB 119, to provide workmen's compensation dependency benefits. (Lamontagne of Dist. 1 — To Ways and Means and Administrative Affairs.)

CACR 28, Relating to: Conservation of Natural Resources and Scenic Beauty. Providing that: The Policy of the State shall be the Acquisition and Preservation of Lands as State Nature and Historical Preserve. (Koromilas of Dist. 21 — To Resources and Environmental Control.)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 220, authorizing the State of New Hampshire to acquire Contoocook Village Dam in the Town of Hopkinton. (Public Works and Transportation)

HB 233, relative to the definition of a child-caring agency. (Public Health, Welfare and State Institutions)

HB 248, establishing an interim commission to study flood plains. (Resources and Environmental Control)

HB 255, to increase the discount for resident purchasing season ski tickets. (Recreation and Development)

HB 264, providing for qualification of bridge inspectors and making bridge inspection a prerequisite to application for bridge aid. (Public Works and Transportation)

HB 315, providing that minors who have completed a hunter safety instruction course in another state be recognized as competent to handle firearms in this state. (Recreation and Development)

HB 297, relative to taking deer with single shot muzzle-loading firearms. (Recreation and Development)

HB 327, to increase the compensation of the Board of Hairdressers, increase fees, and establish new licensing standards. (Public Health, Welfare and State Institutions)

HB 434, repealing the statute permitting time trials of motor vehicles in Rollins State Park. (Resources and Environmental Control)

HB 265, prohibiting the use of motor boats on Mirror Lake in Woodstock. (Recreation and Development)

HOUSE CONCURRENCE

SB 8, providing that encumbered appropriations of tolls collected on Central New Hampshire Turnpike shall not lapse until the object thereof is accomplished.

SB 9, providing that encumbered appropriations of tolls on Eastern New Hampshire Turnpike shall not lapse until the object thereof is accomplished.

SB 42, increasing the membership of the Commission Advisory to the Commissioner of Resources and Development and making the Commissioner of Public Works and Highways a member.

COMMITTEE REPORTS

SB 38

authorizing town by-laws on snow removal. Ought to pass. Sen. Poulsen for Executive.

Sen. JACOBSON: Mr. President, SB 38 adds the words, "snow removal" to the present statute which relates to authorities which are granted to the towns in New Hampshire under

which they cannot take any action except under those specific grants of power.

Adopted. Ordered to third reading.

SB 72

relative to the issuance of state notes. Ought to pass. Sen. Jacobson for Executive.

Sen. S. SMITH: Mr. President, SB 72 does three things: it repeals a section of law requiring the certification on state notes by the Secretary of State. At the present time, we also require a legal opinion from the Attorney General. This is to simplify the process of selling notes.

The second portion of the bill, one year notes authorized to pay charges on a highway fund, is similar to powers had under the Fish and Game Fund and under the general fund. This law was passed several sessions ago, was in the session laws but never appeared in the RSA for some unknown reason. This is placing it within the RSA so that it is readily available.

The third portion of the bill relative to notes indicates, even though the Governor and Council have to approve notes, there is a further requirement which was acted upon by bonding council which requires the Governor to give a separate authority to approve the sale of notes. It was felt that this was not necessary, as Governor and Council take action anyway and this would simplify the law.

Adopted. Ordered to third reading.

HB 137

relative to absentee voting by members of armed services. Ought to pass. Sen. Poulsen for Executive.

Sen. JACOBSON: HB 137 deals with absentee voting by members of the armed services. At the present time, the statute requires that these be sent to the Secretary of State who then sends them to the town or city clerks. What this bill does is simply eliminate that step of the Secretary of State so that they shall be sent directly to the town or city clerk.

Adopted. Ordered to third reading.

SB 85

providing for a one day deer season for resident only. Ought to pass. Sen. Morrissette for Recreation and Development.

Sen. MORRISSETTE: SB 85 provides for a special day for deer season for residents only. There was no opposition at the hearing and the Committee felt that there was a lot of merit in providing this special opportunity for the people of the state who pay taxes, people who may be unable to hunt at the beginning of the season, and those whose land is invaded from the first day of the season by large groups coming from out-of-state.

Adopted. Ordered to third reading.

HB 68

prohibiting the hunting or taking of white deer, and defining the same. Ought to pass. Sen. Koromilas for Recreation and Development.

Sen. KOROMILAS: HB 68 has interesting history in the House. It generated a great deal of heat. There are interesting arguments for and against killing of white deer. At the present time, of course, you can kill white deer. This bill would do the following: it would prohibit the killing of the deer that is predominately white in color. I think the Committee had some problems with it and I think what has to be done is with the inequities in this particular bill because there is no question sometimes it is difficult to distinguish what is a white deer. They could be next to a tree or hidden. On the other hand, some people have been killed in the woods because someone thought he was shooting a white deer. Then there is the question of the beauty of the animal. The sponsor of this bill did say that he saw a white deer shot and we should preserve this particular animal.

There is an interesting argument against the bill. It appeared that some person, who is internationally known, has a film that included white deer and he would have to change the film itself.

Sen. LAMONTAGNE: Senator, what's going to happen now to a person who kills one of these deer?

Sen. KOROMILAS: I think the bill states that it must be predominately white and it would depend upon circumstances. If a person killed a deer and it was found that it was half white and half non-white, it would depend upon where it was shot. If it hit on the white, the man must have known it was white.

Sen. LEONARD: That is based on the assumption that everyone hits where he aims?

Sen. KOROMILAS: Yes.

Senator Stephen Smith in the Chair.

Sen. BRADSHAW: Mr. President, I move that further consideration of HB 68 be indefinitely postponed. It was stated that some internationally known figure had prepared a film that included a white deer. I would like to rise and tell my colleagues that I am the one that was responsible for giving this information to the Committee. I think that the Senate is entitled to a more detailed explanation about this film and the serious effect which this bill could have on it.

This film was made by Lee Wulff who is a member of the Fish and Game Commission of the State of New Hampshire. He resides in Swanson. He happens to be internationally known for his hunting and fishing films. He happens to be a man who has very strong feeling towards the State of New Hampshire. He moved here many years ago because he liked New Hampshire. The film that he made does include a scene whereby he is hunting for a white deer. I would like to make it clear that the State of New Hampshire did not own the white deer that he was hunting. Nonetheless, he was hunting this white deer. He gets to that point where he has a white deer in his sights, he has accomplished what he was after and he decides that he does not want to shoot the white deer because of its beauty. This happened to be a pure white deer. He goes on, in the film, to point out the benefits of coming to New Hampshire and seeing its scenic beauty.

The reason I think that it is important that this be brought out is that frequently, within the legislative halls, I have heard that we should do more to promote the State of New Hampshire. This film is going to be produced with or without reference to New Hampshire. The important thing is the State has an opportunity to receive national recognition and international recognition at absolutely no expense to our state by having this film shown. That is the aspect I wanted to bring out on the film.

The main reason for my moving this bill as inexpedient to legislate is that after doing some studying on it, I felt convinced that this is a bad bill. It was stated earlier that this passed the House after some heated debates. I think that it might be more accurate to say that it passed the House under a circus atmos-

phere. I think that anytime you pass legislation under such a manner, you ask for trouble. The definition is very poor. Enforcement of this bill is almost impossible. Mr. Alger, from the Fish and Game Department, opposed this bill. A biologist from Exeter, whose name I'm not sure of, testified at the House hearing that, in fact, the deer herd would be better off if the albinos were eliminated from them. They are, after all, in essence, freaks and there are all sorts of types of white deer from the pure white to the half-white, half-brown. It is possible for one to have one side white and one side brown. If you think we have some important problems now, you just picture the situation where a man honestly sees a predominately brown deer. He shoots it. On the other side is a game warden who is looking at the predominately white side of the deer. Is the man a criminal or isn't he? I think for us to put such a law on the books is a little ludicrous. I urge my colleagues to support the motion to indefinitely postpone.

Sen. LEONARD: Do you happen to know how many white deer were shot last year?

Sen. BRADSHAW: I don't have the vaguest idea, Senator.

Sen. LEONARD: I couldn't quite follow you about the film. How does this bill affect the film?

Sen. BRADSHAW: Lee Wulff is in the act of hunting a white deer. This bill would make it illegal to hunt such a deer and he would have to cut that section out of the film that refers to the State of New Hampshire and consequently, we would lose the free publicity for our state.

Sen. LEONARD: It's not illegal to hunt a deer; it's illegal to shoot a deer and he didn't shoot it.

Sen. BRADSHAW: But he was starting out with the idea of hunting and it would be an implication that he was going to kill it. He is not going to refer to New Hampshire if the hunting of this type of deer is made illegal; he will have to cut it out of the film.

Sen. LEONARD: Would you think that this bill might help the film; give it more publicity.

Sen. BRADSHAW: No, I don't because I discussed this with Mr. Wulff. They splice film quite easily and it means chop-

ping the film in two places and away goes all reference to the State of New Hampshire. The scene would still be in there but the reference to our state would be lost and the publicity for the state.

Sen. JACOBSON: Keats says, "a thing of beauty is a joy forever." One of your statements mentioned Mr. Wulff went out to shoot the deer and then decided not to shoot it because it was a thing of beauty. Then later on in your testimony you said it was a freak. Now, is it a thing of beauty or is it a freak?

Sen. BRADSHAW: I think it possible for it to be a thing of beauty and a freak. I think there is one important thing about the white deer which I referred to; it was a full white deer and this bill does not say a full, white deer. It says predominately white deer and I can see all sorts of discussion about what is predominately white.

Sen. JACOBSON: Could you state for us the purpose of this bill? Was it for preservation?

Sen. KOROMILAS: It was for safety and for preservation.

Sen. SPANOS: Did anyone from the Fish and Game Department appear at the hearing for or against the bill?

Sen. KOROMILAS: Yes, there was a representative but he spoke neither for nor against the bill.

Sen. LAMONTAGNE: Mr. President, I'm concerned about the hunter in the woods. I've seen deer with brown head and the rest white. I feel that this bill is confusing and I'm in opposition to the bill because I feel some innocent people will be punished if this bill is passed and I support the motion to indefinitely postpone. It is very hard to distinguish the entire deer when you are in the brush hiding and the deer is also hiding.

Sen. MORRISSETTE: I was at this hearing. The problem of penalizing an innocent hunter is practically non-existent. I don't think it necessary to remove the white deer from the film. The biggest reason for this bill is for the hunter to take a second look before shooting. Even though this may be a minute point, it is important that we stress caution in hunting. The Fish and Game Department did not feel as though there would be much problem in enforcing this as there are so few and easy to see.

My main objective and the reason why I support it is because it would encourage a hunter to hesitate before shooting and therefore save a human life.

Sen. LAMONTAGNE: Have you ever seen either a white or brown deer in back of a tree and the deer is just putting his head out?

Sen. MORRISETTE: I've never seen deer under those conditions but I don't think there is any problem of law enforcement.

Sen. LAMONTAGNE: Have you ever seen a deer behind a tree with only his head out?

Sen. MORRISETTE: No.

Sen. SNELL: I would like to recommend that we have a special order of business on April 7 at 1:01 o'clock concerning HB 68. Hopefully we will all be able to achieve in our own minds this minor problem which seems to exist on this piece of legislation. I, myself would like to be qualified on my voting views.

Sen. DOWNING: I question the length of time; the delay.

Sen. SNELL: I personally would like to contact the filmmaker.

Sen. DOWNING: Do you feel that the film is the primary concern here?

Sen. SNELL: No, sir.

Motion to make HB 68 a Special Order Adopted.

Sen. Spanos moved the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock.

Adopted.

Sen. Bradshaw again in the Chair.

LATE SESSION

Third reading and final passage

SB 38, authorizing town by-laws on snow removal.

SB 72, relative to the issuance of state notes.

HB 137, relative to absentee voting by members of armed services.

SB 85, providing for a one day deer season for residents only.

Adopted.

Sen. Provost moved the Senate adjourn at 1:55 o'clock.

Adopted.

Thursday

25Mar71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Guest Chaplain, Rev. Efsthios V. Mylonas of the Holy Trinity Greek Orthodox Church in Concord, New Hampshire.

O eternal God, through whose mighty power the Nation of Greece won its liberties of old, and celebrates today, on March 25th, 1971, its one hundred and fifty years of independence; we thank Thee, we of the United States of America, being mindful of all that gave Thee through the heroic Nation of Greece to mankind, which Nation in its struggles for independence was supported by liberty-loving Americans like Samuel Gridley Howe, George Jarvis, Daniel Webster and others. We humbly beseech Thee, O God our Father, that we may always prove ourselves worthy of our forefathers, who stood side by side in the cause of freedom, and enable us to maintain these liberties in righteousness and peace. Yet, save us from violence, discord, and confusion; from pride, and arrogance, and from every evil way, and enlighten us to unite our hearts as Nation under Thy protection and as humanity under Thy guidance and to live in peace. For all good giving and every perfect gift is from above, coming down from Thee, the Father of Lights; and to Thee we ascribe glory and thanksgiving and worship, to the Father and to the Son and to the Holy Spirit, now and ever and unto ages of ages. Amen.

Pledge of Allegiance was led by Sen. R. Smith.

ANNOUNCEMENTS

Sen. FOLEY: Mr. President, I ask the Senate to join me in rejoicing that the President this morning has rescinded the closure order for the Portsmouth Naval Shipyard. As Senator from this area I wish to publically thank the entire Delegation of New Hampshire as well as the Delegations of neighboring Maine and Massachusetts for their untiring efforts in our behalf. I also wish to thank the Portsmouth-Kittery Armed Services Committee and give a special thanks to the shipyard officers and workers who have been working under extreme pressures who have proved the worth of the Portsmouth Naval Shipyard.

HOUSE MESSAGES

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 120, to require public hearing prior to the vote on bond or note issues of certain municipalities and providing procedures for bonds in excess of one hundred thousand dollars. (Jacobson of Dist. 7 — To Executive Departments, Municipal and County Governments.)

SB 121, applying the coverage of the highway relocation assistance act by project number. (Foley of Dist. 24 — To Public Works and Transportation.)

SB 122, providing that all ballots cast on any question amending the Constitution shall be counted by the Secretary of State. (Lamontagne of Dist. 1 — To Executive Departments, Municipal and County Governments.)

SB 123, relative to enabling local municipalities to appropriate funds for assistance to the aged. (Lamontagne of Dist. 1 — To Executive Departments, Municipal and County Governments.)

SB 124, relative to the definition of a workday. (Jacobson of Dist. 7 — To Ways and Means and Administrative Affairs.)

SB 125, to repeal certain statutes relative to the width of rims of wagon wheels and to chaining wheels on hills. (Jacobson of Dist. 7 — To Public Works and Transportation.)

SB 126, relative to the sale of beer to persons who have attained the age of nineteen. (Morrissette of Dist. 16 — To Ways and Means and Administrative Affairs.)

SB 127, to improve the administration of the workmen's compensation law. (Lamontagne of Dist. 1 — To Ways and Means and Administrative Affairs.)

SB 128, providing for an additional appropriation to the Division of Parks, Department of Resources and Economic Development. (Snell of Dist. 4 — To Finance.)

SB 129, relative to local parking ordinances. (Foley of Dist. 24 — To Public Works and Transportation.)

NON-CONCURRENCE BY THE HOUSE AND REQUEST FOR COMMITTEE OF CONFERENCE

HB 106, to clarify the definition of subdivision.

The Speaker has appointed as members of said Committee of Conference on the part of the House of Representatives Reps. Fuller, Kopperl and Mayhew.

On motion of Sen. Jacobson, the Senate voted to accede to the request for a Committee of Conference.

The Chair appointed as members of said Committee on the part of the Senate, Sens. Jacobson and Marcotte.

COMMITTEE REPORTS

HJR 1

providing additional funds for Board of Professional Engineers. Ought to pass. Sen. R. Smith for Finance.

Sen. R. SMITH: HJR 1 is a supplementary appropriation for the Board of Registration of Professional Engineers in order to meet their necessary expenses for the remainder of the biennium. Part of their difficulty is the inability to judge two years in advance how many examinations they will have to give. The Board supplies sufficient revenue to the General Fund to more than offset this request.

Adopted. Resolution Ordered to third reading.

HB 146

relative to service roads constructed by the state in conjunction with limited access to facilities. Ought to pass. Sen. Townsend for Public Works and Transportation.

Sen. TOWNSEND: Mr. President, HB 146 deals with the classification of service and access roads which are required to be constructed at the time that the Highway Department is building new roads which cut off property which is owned, thereby making it inaccessible. The law presently requires that when these access, or service roads are built they shall be classified as IV or V roads. This bill will permit the Highway department to classify them as Class VI roads in those places that do not require a road which can be traveled and maintained for the usual traffic. This will, in the end, save money for the Highway Department because they will not be required to bring the standard of these Class VI roads up to the Class IV or Class V standard. It will save money for the towns and cities because they will not have to maintain these roads and in some instances, the Highway Department has found it very economical to purchase land that has been cut off rather than build the access roads. If this bill passes, they will be able to build left out roads which will not have to be maintained nor have to have the expensive sub-service. Thereby, they build these cheaper than they can purchase some of the out-of-the-way properties that normally the state would purchase rather than build the access to them. I think this bill ought to pass.

Sen. MORRISSETTE: Would this bill liberalize the land law?

Sen. TOWNSEND: As I understand it, this would not be retroactive. However, you have a point in that in the future, such a thing would not be done. You would not be changing the State Highway policy of building limited access highways. You do have to make provision for access too.

Sen. LAMONTAGNE: Mr. President, under the present statute, the Highway Department can bulldoze a highway or use of a point of access if we pass this bill. The state would have to turn around and build a Class IV or V highway and the town would have to maintain it. If we change the law, while the construction is going on and they bulldoze it to build an access, the town will not have to maintain it. This is a saving for other towns.

Sen. JACOBSON: Sen. Townsend, was this bill amended in the House to read only a Class VI road?

Sen. TOWNSEND: Yes, that is correct.

Sen. JACOBSON: So that as a maintenance feature it has disappeared as well?

Sen. TOWNSEND: That's correct. That is the maintenance of the Class VI roads.

Sen. JACOBSON: Yes. That is consistent with the statute as it exists now. If, for example, a person were cut off and had his domicile cut off, would this not create a potential hardship on that individual?

Sen. TOWNSEND: No. For this reason, senator, this law does not make it mandatory that these roads be classified VI. The roads will still be classified IV, V, or VI to be determined by the Highway Department and municipalities. In a case such as you mentioned, where a person's home or domicile has been cut off, this road would be classified as IV or V as the case would be and be maintained by the city or town.

Adopted. Ordered to third reading.

HB 246

authorizing the use of breath tests to determine the percentage of alcohol in the bloodstream of motor vehicle operators. Ought to pass. Sen. Downing for Public Works and Transportation.

Sen. DOWNING: HB 246 provides an additional tool in maintaining the attack on a monstrous problem — THE DRUNKEN DRIVER —

At the public hearing on this bill, there was testimony given by many safety and medical officials, including some who traveled from as far away as New Jersey.

THERE WAS NO OPPOSITION TO THIS BILL.

This bill is more than — just another way of providing the police officer a method to get convictions in court. The mechanism used for breath tests, not only permits the proper identification of someone under the influence of alcohol, but protects those people who might appear to be under the influence and are fact quite sober but need immediate medical help because of some ailment that simulates various stages of drunkenness.

The breath test permits this classification to be made quickly and with the same accuracy as a blood or urine test.

Some testimony given alluded to the rather sad experience we had about 15 years ago with breath machines and it was explained that the machines were not reliable nor were the operators properly qualified. However, today's machine is absolutely dependable and only those who have taken a proper course of instruction and passed will be certified as licensed operators. Machines and operators will be subject to regular, periodic checks of performance.

During the last five years, from 1966 to 1970 there has been a total of 758 fatal accidents here in N. H. which resulted in 876 deaths.

It was not possible to give a blood or urine test to all operators involved, however those that were tested showed that 352 of the operators or 47% had been drinking alcohol.

The passage of this bill will reduce that scandalous condition.

This bill is a good bill. We're talking about a system that has been researched, tested and proven in 95% of our nation as well as the Canadian Provinces.

It quickly, cleanly, painlessly, establishes guilt, while protecting the innocent and assuring aid to the sick.

The passage of this bill at this time is financially important to N. H. because right now the Federal Government is prepared with total funding to purchase the needed equipment and set up the necessary training programs.

The Federal Government is in fact, prepared to spend over 1 million dollars to determine effective means of bringing under control the drunk driver. These funds may not be available at another time.

Implementation of the breath test, by passage of this bill is a *must*. In the interest of safety for every man, woman, and child in our State I urge you to support this bill.

Sen. KOROMILAS: What is this breath analyzing machine and how does it operate? If I had had a drink and was stopped by a police officer five minutes later, could it distinguish this?

Sen. DOWNING: From the testimony that I have heard, senator, no, it would not.

Sen. NIXON: Does the bill provide for an independent or partial observer to be present while the person is being tested?

Sen. DOWNING: I don't believe that it does. It does require that two tests be made; one at the time and one fifteen minutes later. A copy of the test has to be furnished to the individual.

Sen. NIXON: Does the bill provide for any standard type machine? Just a general machine or have many been made that are equal in competence and performance?

Sen. DOWNING: The bill does not provide for any specifically manufactured machine.

Sen. NIXON: Since you are a member of the Committee, do you have any knowledge why this bill, having to do with drinking while driving, wasn't sent to the Senate Judiciary Committee along with several other bills relating to the same topic which are now being considered by this body?

Sen. DOWNING: I have no knowledge of why. Assignment of a bill is the prerogative of the President.

Sen. SPANOS: I notice that a person must be certified by the Director of Public Health in order to administer the test. Was there any testimony as to who is being certified?

Sen. DOWNING: I think primarily it would be a trained police officer.

Sen. McCARTHY: In your statement, you said something about 95% of the states have researched this test. Do you have any idea how many states use the breath analyzer now?

Sen. DOWNING: Just three do not.

Sen. MORRISSETTE: If you took a couple of drinks in a restaurant, would that register on the machine and therefore be considered drunk?

Sen. DOWNING: The breath meter would be correlated directly to the blood and the urine test. If you come up with a positive breath test, you would also show the same amount of alcohol in the blood as for a urine test, so this doesn't change a thing. You are not being more susceptible to being found under the influence with the breath analyzer than you would be if you were submitted to a blood test. This way is easier in that you

can always have this machine at your disposal whereas you cannot always find someone to take a blood test.

Sen. MORRISSETTE: Would you be permitted to call an attorney to represent you?

Sen. DOWNING: That is your privilege.

Sen. MORRISSETTE: I thought you were required to take it or automatically lose your license? Isn't that in the bill.

Sen. DOWNING: Well, we have the implied consent on it which protects this area.

Sen. LEONARD: We've had these machines in New Hampshire for many years; at least fifteen. There has been a lot of problems with the people who operate them; problems of how often the machines were calibrated, training of the operators. In the testimony before your Committee, were there any specifications or training requirements that would insure that we would have proper operators?

Sen. DOWNING: Yes. If you recall my initial testimony on the bill, I referred to the bad experience we had about fifteen years ago in which we had equipment in which the people were not properly trained. This would involve a complete training program of the personnel and maintenance of that program. They will have to be certified to operate this machine by the Department of Public Health.

Sen. LEONARD: That's the only change that I see in the present law; the requirement that it be licensed. What insurance do we have that these people will be qualified and trained properly to operate this machine under this bill?

Sen. DOWNING: I guess this would have to be subject to investigation any time you choose to investigate it. The thing is that every department should. There will be a program for the reclarification of the ability of the person to conduct these tests. This individual will have to be researched periodically on this and subject to examination as will the machinery itself.

Sen. LEONARD: But there is nothing directing these requirements is what bothers me. Would you agree that the legislative intent of this bill is to have highly qualified personnel operate the machine and that two tests will be given fifteen minutes apart and that the machines will be properly calibrated at reasonable periods of time?

Sen. DOWNING: Yes.

Sen. KOROMILAS: Under the present law, does a person have the right to call an attorney and ask him questions as to what he should do? Would this test be administered immediately after a person is arrested? Or, would he be taken down to the police station, given the opportunity to have proper council and then take the test?

Sen. DOWNING: The machinery would have to be in a stationary place so I would say that the individual would have to be taken to a place where the machinery was situated.

Sen. KOROMILAS: Is it a huge machine? You said it was not portable?

Sen. DOWNING: Correct. The machine is not portable. The individual would have to be taken to a point where the machine was located.

Sen. KOROMILAS: Who would be giving these tests?

Sen. DOWNING: An attendant, operator; a fully certified person.

Sen. KOROMILAS: Are there any appropriations for this bill?

Sen. DOWNING: There are no appropriations. This will be Federal funding.

Sen. POTTOR: What is the cost of these machines?

Sen. DOWNING: I don't know. Sen. Poulsen could tell you.

Sen. POULSEN: \$900 each.

Sen. PORTER: About how many do you think we would need in the state?

Sen. POULSEN: Approximately forty.

Sen. PORTER: In the testimony, there was some reference to the specifications of the equipment. Do you have any idea of the accuracy of the measurement and how long this accuracy might last?

Sen. POULSEN: It works on the principle of a light beam producing a colored reaction.

Sen. DOWNING: The question wasn't quite clear to me, senator.

Sen. PORTER: The law stipulates a certain percentage of alcohol in the blood constitutes a person is drunk and if he takes a test and it indicates that he has .5 percent of alcohol in the blood, how accurately can this machine measure this percentage of alcoholic content and how long do they last, each specific machine, before they have to be recalibrated?

Sen. DOWNING: Just as accurate as the blood and urine test. The State of Rhode Island has an education program on this and for every breath test they run, they also run a blood test and they have never been wrong greater than 1/100 of 1 percent. As far as recalibration of the machine goes, they are very reliable. They have had machines for more than ten years now and have had no adverse performance on them.

Sen. S. SMITH: Sen. Downing, isn't one of the major reasons for this legislation the fact that the other two tests, which we have at the present time which are legal in this state, are difficult and sometimes very inconvenient to perform?

Sen. DOWNING: Yes, very definitely.

Sen. SPANOS: Why is it so inconvenient in view of the fact that we are going to have only forty of these.

Sen. DOWNING: Because often you have to wait quite a long time to get the blood test done and have the results submitted whereas you can have immediate results with the breath machine. There are very few doctors available at 3:00 in the morning to administer a blood test. I would like to point out also that the urgency of this is not just to catch the offenders, but many times, people are detained during the time that it takes to get a blood test done and often, they need medical attention immediately and this gets it to them as quickly as it possibly can.

Sen. KOROMILAS: A blood test and urine test is computed on the basis of weight. How is this machine going to measure when weight is not considered? What are the variables and what are the constants?

Sen. DOWNING: I'm not sure either one of us understand your question. I would say that when we are talking in terms of 1/100th of 1 percent that this is an infinitesimal area.

Sen. PORTER: Is it possible to convert the machine into a portable model where the police officer could take it along with him?

Sen. DOWNING: There are some experiments in England to this effect, but it is not now recognizable.

Sen. PORTER: If, when the test is performed, does the person have to breath normally and are the results immediately available?

Sen. DOWNING: Yes.

Sen. LEONARD: Mr. President, I rise in support of the bill. As I pointed out when I questioned Sen. Downing, it is permissible under the present law to have these machines and I have had a lot of experience with clients who have used these machines. We do not have properly trained operators and it was unfair to the defendants who were picked up. I would like to have on the record the legislative intent of passing this bill.

First, I understand that the testimony was that they will be licensed by state chemists, they will be thoroughly trained, the machines will be calibrated, there will be two tests, fifteen minutes apart and all these safeguards are necessary. The only difference between this bill and the present law is the requirement that the operator be licensed by state chemists.

I would also like to point out along the lines of legislative intent in passing this bill, that this bill also pertains to blood in that the blood be drawn by a licensed physician. In my knowledge, there are many tests taken in drawing blood from defendants where they do not have a doctor or laboratory technician. They use nurses. From my experience in serving in both the House and the Senate, testimony was presented each time a bill like this came about to indicate the necessity of a technician to draw blood. There are many nurses who are qualified to draw blood, but they are not as qualified as a lab technician or a doctor who realizes all the safeguards that must be taken to protect the individual being tested. I think that it should be noted on the record that blood should be drawn by a technician or doctor and not by a nurse.

Sen. SPANOS: Why can't the breath machine be placed in a hospital rather than in the police station and why can't the doctor or technician take the test?

Sen. LEONARD: Well, I would think the average doctor or technician would not be qualified to administer the test with the machine because there is certain technical training necessary.

Sen. SPANOS: You think it would be difficult to train a laboratory technician to understand the procedure and take the test?

Sen. LEONARD: I think it would. If you take a hospital, for example, the Memorial Hospital in Nashua, they have four or five laboratory technicians. You don't know which one will be on duty when the test is necessary so you would have to train them all. There might be a turnover in personnel but if the police department trained their individuals, they would see that there was one available at all times. I would have nothing against training all the lab technicians or doctors but I think it would be much better if the police handled it.

Sen. MORRISSETTE: Once we reach the police station, can the person call an attorney prior to taking this test?

Sen. LEONARD: Yes. They should be warned as soon as they are arrested of their rights to have a lawyer and the test. If the individual requests that the test not be administered until his attorney arrives, they will abide by his request.

Sen. NIXON: Do you see any requirement indication in the bill that the test be witnessed by an impartial third person?

Sen. LEONARD: I think that is a good suggestion but it is not provided for.

Sen. GARDNER: Mr. President, I am not sure that everyone knows that we were one of twenty states selected for a pilot program in traffic safety as it relates to alcohol. I know that some of the bills that will come before you this session are a direct result of recommendations from that area. Now, I wasn't sure how this was going to be funded so I just checked and found that it will be funded by the Safety Action Program and the Department of Health will set regulations and curriculum with the schools and will provide for constant checking and re-checking of the machines and the operators. Every state policeman will be trained to operate these machines.

Sen. NIXON: I move that sub-section III of Section 2 of the bill be amended by requiring that no such test be adminis-

tered except in the presence of a witness designated by the person being tested so that said section in its entirety shall read, "only persons certified by the Director of the Division of Public Health may administer the breath tests and no such test may be administered except in the presence of a witness designated by the person being tested.

RECESS.

Sen. NIXON: I withdraw my motion to amend HB 246. Mr. President, I would like to express concern as to the inadequate protection of the rights of the accused, in the bill before us. No opportunity is provided for an impartial witness, and no check on the accuracy of the testing machine. Here we have, if I may coin a phrase, "Big Brother" intruding into the lives of citizens in terms of their auto license, without adequate safeguards. It seems to me that we should all be aware of the deeper implications of legislation of this nature. We have a state, on the one hand, which is enacting legislation which encourages greater consumption of alcohol — pushing alcohol on our people, if you will — in including bills which would lower the age of permissive drinking. On the other hand, we are also asked to enact legislation such as this to penalize those who follow the state's advice and try to increase our revenue by buying and consuming alcohol.

Sen. POULSEN: I rise in support of the bill in hopes of alleviating Sen. Nixon's fears about the rights of the individual. We think the bill more than protects the individual. He has a chance to legally know the results of the test and can then proceed to have a blood test or take any other action he wants. We think the individual is well protected under the terms of this bill.

Sen. BROWN: I move that HB 246 be made a Special Order for April 1 at 1:01 o'clock.

Sen. DOWNING: I think the motion is unreasonable. I don't think there is a great deal of dissent here. I recognize the practice of the personal privilege of making this a special order of business but the senator's reason for this is that there is so much indecision and I don't think that case exists.

Sen. KOROMILAS: I rise in support of the motion of Senator Brown. I say this because I, too, have some reservations with

respect to this particular bill. I think there is no question that our roads should be protected against those drinking and driving. Those who are in question should have the time and opportunity to further investigate the matter.

Sen. McCARTHY: I rise in favor of the motion. I do have a legitimate problem with respect to this bill and the rights of the individual.

Sen. MORRISSETTE: I rise in favor of the motion because I am not satisfied and I feel that Sen. Nixon brought out some very important points. There should be a third party present.

Sen. SPANOS: Mr. President, I rise in support of the motion to make this matter a Special Order on April 1.

I do so for two reasons: One, sufficient doubt has been raised in my mind after the discussion we have had here today so that I should give it more study; and second, yesterday we made HB 68 "an act prohibiting the hunting or taking of white deer" a Special Order.

Certainly HB 246 is as important.

PARLIAMENTARY INQUIRY

Sen. GARDNER: Mr. President, would it be possible to go into a Committee and have Mr. Power come in and answer any questions they are in doubt about and perhaps demonstrate this machine?

The CHAIR would state that this would require a motion and consent by a majority of the Senate.

Sen. GARDNER: I would like to make that request for Tuesday.

The CHAIR would state that the proper time for that would be on Tuesday.

Sen. JACOBSON: Mr. President, is it permissible for a person outside the Senate to come in and explain?

The CHAIR would rule that if it was the desire of a majority of the Senate, it would be permissible.

Sen. LAMONTAGNE: Mr. President, as much as I hate to go against my colleague from the Twenty-second District, I

believe that the honorable senator from the Nineteenth District is certainly entitled to ask for a special order of business and although the honorable senator from the Twenty-second District did an excellent job in answering questions, I would like to see him go along and make it a Special Order.

Sen. LEONARD: I rise in support of the motion for Special Order.

Sen. DOWNING: I withdraw my opposition to the motion.

Motion to make HB 246 a Special Order of Business Adopted.

SB 56

relative to the suspension of motor vehicle licenses of minors in possession of alcoholic beverages. Ought to pass. Sen. Lamontagne for Public Works and Transportation.

Sen. LAMONTAGNE: Mr. President, there have been many teenagers who have been hurt a great deal because of the way that the law is now written. This says that they "shall lose their licenses for transporting alcoholic beverage". Therefore, there has been many times in which teenagers were involved in such a case and it was not their fault that alcohol was in their car at the time that they were driving. It either belonged to their parents or someone else in the car. The way the law is written, it says "shall" and there is nothing the Motor Vehicle Department can do except take the license away for ninety days without exercising any exception to these cases. Now, the only thing that this bill does is to change the word, "shall" to the word, "may" and therefor, if a person is not guilty, the Commissioner may return the license.

Sen. MARCOTTE: I would also like to support the bill. I have been in contact with some of my constituents who have been under similar circumstances.

Sen. PORTER: I rise in support of SB 56. Some people can lose a license by mistake.

Sen. NIXON: I rise in support of the bill. I, too, have had some personal experience in cases where the present law, in this respect, was agreed to be unjust.

Adopted. Ordered to third reading.

HB 87

relative to the penalty for guiding an unlicensed hunter. Ought to pass with amendment. Sen. Koromilas for Recreation and Development.

AMENDMENT

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Fish and Game Licenses. Amend RSA 214:37 (supp) as amended by 1959, 29:2 and 1969, 8:1 by striking out in line eight "RSA 215" and inserting in place thereof (RSA 214) so that said section as amended shall read as follows: 214:37 Fines. Any person who violates the provisions of this chapter shall be fined not less than fifty dollars nor more than one hundred dollars. A person who furnishes to another person, or permits another person to have or use, a license issued to himself or any other person, or changes or alters such license or coupon, or uses a license or license coupon issued to another person, or makes a false statement in an application, or knowingly guides a hunter who has not a license as provided in RSA 214, shall be fined not less than fifty dollars nor more than one hundred dollars.

Sen. KOROMILAS: The amendment does one thing. Under the present law, there is no authority on the part of the Court to suspend any part of the fine. In other words, no portion of the fine shall be suspended. All the amendment does is delete the part that says no portion shall be suspended. The reason why the Committee felt that this should be removed from the bill was because the Court is an independent and co-equal member of the government and should have the discretion to suspend or not to suspend a portion of the fine. This is very clear and the Committee felt that this should pass. The bill is a housekeeping bill. All it does it gears this to the right section.

Adopted. Ordered to third reading.

HB 171

establishing the time of the annual public hearings relative to the powers and duties of the Fish and Game Department. Ought to pass. Sen. Provost for Recreation and Development.

Sen. PROVOST: Mr. President, the only thing that HB 171 does is change the time of of the hearing from 10 o'clock

A.M. to 8 o'clock P.M. There was no opposition.

Adopted. Ordered to third reading.

PERSONAL PRIVILEGE

Sen. SPANOS: Mr. President, yesterday, President Nixon announced that he was cancelling an earlier order to close the Portsmouth Navy Yard. For this decision, vital to the state's economy and the nation's defense, all of us are grateful.

We owe our gratitude to the President and to all of our public servants who worked so diligently to reverse the policy established by the Johnson Administration. Many here at home have expressed their thanks to the President and to the N. H. delegation on a non-partisan basis.

But there was one particular statement issued which appalled me to no end, and that was the release issued by the Governor's Office yesterday. He chose to single out for compliment Sen. Cotton, Congressman Wyman and himself for bringing about the rescission order. These three deserve our plaudits but it is ironic that conspicuously absent from Governor's Peterson's self-serving statement was the name of Senator Thomas McIntyre.

May I say on this score that the junior Senator has involved himself and his office on this issue since the date Secretary McNamara announced the decision in 1964. He has been a consistent critic of the decision since it occurred; he opened an office in Portsmouth just to respond to the problem, which office still remains open; he has been in constant communication with the Defense Department and the Secretary of the Navy; he helped to secure together with Sen. Cotton the authorization of 4 million dollars to be used to modernize the shipyard which was essential to preserving the yard as a going concern; he has been in touch with both former President Johnson and President Nixon; he has conferred on numerous occasions with the N. H. delegation; and serving on the Senate Armed Forces Committee he has never failed to raise the shipyard issue with those testifying before his Committee.

I am positive that Congressman Wyman, Senator Cotton and the Governor have responded in the same manner and we commend them all for their efforts.

But I am critical of the Governor's statement — which I firmly believe was politically motivated. It was an obvious and deliberate omission. The Governor cannot pass this off as the rhetoric of the political season. This calculated omission serves no worthwhile purpose unless perpetuity in office is the essence of one's being. No small wonder the people mistrust us.

Mr. President, it is indeed rare when I criticize Governor Peterson — but in this case I must remark that this latest effort to minimize Sen. McIntyre's endeavors is unworthy of him — and unbecoming any Chief Executive of this State.

REPORT TO THE LEGISLATURE OF THE
COMMITTEE TO STUDY ECONOMIC POTENTIAL
AND DEVELOPMENT PROBLEMS OF
MT. SUNAPEE STATE PARK

Section 1 — The Committee met seven times, of which three meetings were held at the Park. Two of the Park meetings were held to study the winter facilities and one to study the summer facilities. The Committee hired Mr. Thaddeus Thorne of Conway to make a thorough study of the terrain of the park with respect to possible major expansion. His report to the Committee is on file in the Office of Legislative Services.

Section 2 — Recommendations Regarding Winter Facilities

The consultant report indicates that there exists no reasonable expectation for major expansion of skiing facilities at Mt. Sunapee. Furthermore, there does not exist the possibility of any significant increase in the beach facilities except through the purchase of rather expensive adjacent properties. To date there does not exist any significant overload of beach facilities.

There is, however, strong indication that minor expansion of skiing facilities could be undertaken; the completion of which would reduce the taxing of facilities on weekends and also reduce complaints regarding operation. The Committee recommends the erection of two additional lifts. One lift would be located at a point east of chair lift running on the SE side of the summit, the second to be located in the Bowl area. In this connection, the Committee recommends that additional auxiliary facilities be located at the base of the Bowl. Both these additional lifts will reduce the crunch factor on high demand days as well as provide some additional capacity. In conjunction

with these additional lifts, the trails should be reworked so as to even the flow between lift capacity and trail capacity. In addition, the Committee recommends that the Parks Department undertake a study with regards to exchanging lift types so as to provide greater capacity. Finally, the Committee recommends that the present procedure with regards to receiving daily tickets on season tickets be altered, and that the photo-identification season ticket be re-initiated which would result in the elimination of the requirement to receive daily passes and would considerably cut down on illicit re-sale of day tickets issued to season pass holders.

The Committee recommends that the Department of Parks undertake an investigation into the prospect of joining cooperatively with inn, motel, or hotel owners in providing a week-day package which would include a Monday through Friday ticket at a reduced cost. This recommendation is based on the evidence that there is under-utilization of facilities during the week. With the increasing trend toward ski week vacations, this would add revenue without any significant increase in cost.

The Committee recommends that the Parks Department undertake a study of the possibilities for establishing snowmobile trails in those areas not utilized for skiing. The Committee feels that this is a growing sport, and the state has a responsibility to provide facilities and at the same time reduce problems of snowmobiling on public highways and on private properties. Since more than half of the area owned by the park is not now utilized for skiing, there seems to be a reasonable expectation that part of the remaining acreage could be utilized for this winter sport. Also, the Committee recommends that the feasibility of establishing a skating rink be thoroughly studied.

Section 3 — Recommendations Regarding Summer Facilities

The Committee recommends that a corridor be either purchased or leased on a long term to connect Mt. Sunapee State Park with Pillsbury State Park. This would be an advantage in the summer in the establishment of hiking trails and could also be utilized for snowmobiling or cross country in the winter. The Committee recommends greater utilization of the facilities during the summer for continuing programs and shows; namely, antique shows, art shows, arts and craft shows, and other forms of exhibition. The Committee feels that the facili-

ties are very largely under-utilized in the summer, and that the above recommendations would help in greater use of the capital investment.

Section 4 — Promotion

The Committee recommends that the state spend an increased amount for the promotion of the park. Especially does it recommend that more be done with promoting summer activities and week day skiing programs.

Section 5 — Miscellaneous

At the public hearing a number of other recommendations were made. These are included in the report, but do not have the specific recommendation of the Committee. Among these is the possibility of establishing housing units, in the chalet type model, along the corridor between Route 103 and the parking area. The Committee, however, feels that the state should not get into the housing or inn facilities business. Another recommendation that use be made of the large hall for night time activity such as dancing. In the Committee's view, this would only be feasible under the strict control of the park management. Another recommendation made to the Committee is that the top of the mountain be utilized, particularly in the summer, for an eating facility in the model of a full fledged restaurant including beer, wine, and spirits.

Respectfully Submitted:

Senator Alf E. Jacobson, Chairman
Senator Harry V. Spanos, Vice Chairman
Representative Theodore Aucella
Representative Edward P. Hickey
Representative George T. Studd

Sen. Jacobson moved the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when we adjourn today, it be until Tuesday next at 1 o'clock in honor of Greek Independence Day, the 150th anniversary thereof. CHRONIA POLLA ZETO E ELLAS. For you people who do not understand this, it means, "Many years, long live Greece."

Adopted.

LATE SESSION

Third reading and final passage

HJR 1, providing additional funds for Board of Professional Engineers.

HB 146, relative to service roads construction by the state in conjunction with limited access facilities.

SB 56, relative to the suspension of motor vehicle licenses of minors in possession of alcoholic beverages.

HB 87, relative to the penalty for guiding an unlicensed hunter.

HB 171, establishing the time of the annual public hearings relative to the powers and duties of the Fish and Game Department.

Adopted.

Sen. Spanos moved the Senate adjourn at 2:40 o'clock.

Adopted.

Tuesday
30Mar71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

Eternal GOD, thou who watchest over the destiny of men and nations — grant that in our generation we may not squander the opportunity which has been so dearly bought, or relinquish the ideals for which sacrifice has been so costly made, but may we set ourselves to the unfinished business of freedom, realizing that when freedom is not shared it is soon lost. May we, in our responsible actions today, keep our faith with those who sought and achieved the freedom we enjoy and desire to bequeath to those who follow us. Amen.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 130, relative to expert witness fees in superior court cases. (Leonard of Dist. 13 — To Judiciary) for the Judicial Council.

SB 131 abolishing arrest upon civil process. (Spanos of Dist. 8 — To Judiciary) for the Judicial Council.

SB 132, relative to the jurisdiction over domestic relations cases, providing for full-time probate judges, providing for appeals to the Supreme Court, and establishing a study committee. (Nixon of Dist. 9 — To Judiciary) for the Judicial Council.

SB 133, relative to the Uniform Reciprocal Enforcement of Support Act. (Spanos of Dist. 8 — To Judiciary) for the Judicial Council.

SB 134, relative to the construction industry. (Brown of Dist. 19 — To Public Works and Transportation.)

SB 135, to license private detectives and private detective agencies. (Nixon of Dist. 9 — To Judiciary.)

SB 136, relative to the taxation of farm, forest, wet and wild land. (Townsend of Dist. 5 — To Ways and Means and Administrative Affairs.)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 181, to provide to the regulation of title insurance. (Banks, Insurance and Claims)

HB 230, requiring open vehicles to be covered when carrying particulate material. (Public Works and Transportation)

HB 274, providing for certain transfers in the appropriation for fiscal year 1971 for the division of vocational rehabilitation. (Finance)

HB 302, relative to injury to domestic ducks or fowl by hunters. (Recreation and Development)

HB 317, increasing fines for commercial fishing violations and to provide for confiscation of fishing gear. (Recreation and Development)

HB 443, increasing the debt limit for school construction in the Town of Bedford. (Executive Departments, Municipal and County Government)

CONCURRENCE BY THE HOUSE ON HOUSE BILL

HB 87, relative to the penalty for guiding an unlicensed hunter.

NON-CONCURRENCE BY THE HOUSE ON SENATE BILL

SB 23, relative to probable cause hearings.

CONCURRENCE BY THE HOUSE ON SENATE BILL WITH AMENDMENT

SB 51, providing for the Commissioners of Safety and Education to devise standards for the conduct of driver education courses and to eliminate restricted instruction permits for fifteen-year-olds.

Sen. POULSEN: Mr. President, I move that the Senate concur with the House in the passage of this bill as amended by the House. The whole purpose of the amendment is that it does restore the fifteen-year-old ability to drive in school; in public school but not in private school.

Sen. FOLEY: Mr. President, this was my bill and I am very sorry I haven't studied the amendment. I hate to do this, but I wonder if this could be made a special order for Thursday at 1:02 o'clock?

Adopted.

COMMITTEE REPORTS

HB 126

extending the Good Samaritan Law to certain rescue and ambulance squads. Ought to pass with amendment. Sen. Nixon for Judiciary.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 The immunity from liability for negligence provided by the preceding section shall not apply if and to the extent that

at the time of the act or omission giving rise to such a claim for civil damages a policy of liability insurance is in effect which insures the person or organization found to have been responsible for such act or omission against public liability.

3 Effective Date. This act shall take effect sixty days after its passage.

Sen. NIXON: Mr. President, the law which was in effect prior to submission to HB 126 provided that persons rendering emergency care at the scene of the emergency were insulated from civil liability or damages arising from any negligence by them provided they received no compensation, but it restricted that protection to the scene of the emergency. HB 126, as it came from the House of Representatives as they amended it there, extended that immunity so that it would also immunize negligent acts during transportation from the scene to a hospital with respect to care being administered in the course of that transportation. The amendment proposed by your Senate Judiciary Committee would limit the immunity for negligent conduct where there is liability insurance in effect which would protect the persons and agencies involved in administering the care to the extent of the limits of the applicable public liability insurance only.

In effect, the bill now before you for consideration extends the immunity for civil liability for negligence from the place where an emergency might happen to, or during, the course of transit to a hospital or to a doctor and protects, for instance, the emergency rescue squad and the organization, charitable or civil in nature, which might support such a squad from liability during the trip. It also provides that the people who might be administered negligent care or suffer as a result, do have a right to recover civil damages to the extent that any liability insurance policy pertains and up to the limit of such policy only.

Amendment Adopted. Ordered to third reading.

CACR 15

Relating to: The Trial of Crimes. Providing That: District Courts may try crimes committed in a county other than the county where the court sits. Ought to pass. Sen. Jacobson for Judiciary.

Sen. JACOBSON: Mr. President, in 1769 we established

our counties; the first five. And between 1769 and 1840 we added the other five. No changes have taken place since 1840 in the way the lines were drawn for the county. Similarly, our system of justice has been established along the county line. There are ten Superior Courts. As justice and the administration of it has evolved, we have come to the District Court system. These District Courts have been situated in approximately thirty-nine different districts. However, the sociological and economic situation has greatly changed from what it was in 1840. We get situations where District Courts are located along the border of a county line. The communities have come together across county lines but the administration of justice, and in this instance, criminal justice, cannot be carried out across the county line because of the restriction.

I understand that originally the reason for restricting criminal justice to the county was to give the person the opportunity to be tried by those who were, in a sense, his peers, rather than to be shipped off to some strange area. Now, it is working exactly the opposite way. Where an individual may be related to an area, and let me give a very simple illustration; that is the Town of Springfield happens to be in Sullivan County and the Town of New London happens to be in Merrimack County where the District Court is located, but the people of Springfield, who belong to the same school district as New London, cannot have their justice administered in the same way. We have a similar situation at the other end of my district where Belknap County and Merrimack County come together where the Town of Tilton lost its Municipal Court and now must go to Laconia. But, the people who live in Northfield, which is across the river from Tilton, go to Franklin. However, in order to get to Franklin, they have to go through the Town of Tilton in order to get there. If this amendment were adopted, Tilton could be incorporated in the area. As I understand it, up in the Littleton area, there is a similar complication that forces people to travel as far as fifty miles.

What this amendment does is to allow District Courts to establish their boundaries across county lines. In a criminal proceeding, if a person is found for probable cause, then his case would be transferred to the Superior Court in which the crime was committed.

Division vote taken, the result being 23 Yeas, 0 Nays, the resolution was ordered to third reading

SUSPENSION OF THE RULES

Sen. S. SMITH: I move that the rules of the Senate be so far suspended as to introduce Senate Concurrent Resolution 2 and that they be further suspended so that the report may be made and action be taken today.

Adopted.

SCR 2, pertaining to the study of the Criminal Code and the Uniform Consumer Credit Code.

Sen. S. Smith for the Committee.

Sen. S. SMITH: Mr. President, this Concurrent Resolution authorizes the continuance of a Committee to study various aspects of Criminal Code which was passed last session of the Legislature to report in this session and continues the Committee through March 31. It also states that payments for attendance at meetings will be authorized. The Rules Committee has brought in the report that the Resolution ought to pass and I hope the Senate will concur.

Adopted. Resolution order to third reading.

SJR 9

in favor of John Dukette of Andover. Inexpedient to legislate. Sen. Poulsen for Public Works and Transportation.

Sen. LAMONTAGNE: Mr. President, I had a talk with the Chairman of our Committee and at the same time talked with Sen. Jacobson and therefore it is agreed that the Committee would like to recommit SJR 9 back to the Committee.

Sen. POULSEN: I move that this bill be recommitted to Public Works and Transportation.

Adopted.

PERSONAL PRIVILEGE

Sen. LAMONTAGNE: Mr. President and members of the Senate, over the weekend I have had many of the railroad employees of the Canadian National Railroad who were very disturbed over an income tax charged to them on their pay checks to the Canadian Railroad. Personally, I feel that this is just an

error and the reason I am bringing it up before the Senate is to take advantage of our news media so that they can bring news to people that it possibly wouldn't reach. I have written a letter to the Secretary of the Tax Commission to ask them to inform the Canadian Railroad that there is no income tax on the law books for residents of New Hampshire as of yet. Although there is an income tax, and I think this is where the error has come in, that they get confused with the people who are not residents of New Hampshire which is under the public law 91-569. I feel that this letter that I have sent to the Commissioner of Taxation will straighten out this matter so that the residents of New Hampshire can be reimbursed back by the Canadian National for the payment of an income tax that we don't have as yet.

RECESS

Sen. MORRISSETTE: Everyday I read and listen to the radio and television concerning the problems facing our state. The thing that disturbs me the most is the one-sided presentation of news by several of our state news media. First, I would like to thank and comment on the radio and commercial TV stations as being quite fair. Several of our weekly newspapers publish little or no news. However, they do publish frequent editorials, usually one-sided, and encouraging new spending as the only solution to our problem. This is grossly unfair to the people of our towns and cities. I rise today in protest over two articles which appeared in the *Concord Monitor* of March 23 and March 26. I feel that what they said was unfair and I would suggest that they publish all the facts and the complete truth.

I spoke at the forum of March 23 and felt that what I said had some merit. How can this newspaper claim that what was said was stale? I would like to explain to this newspaper that something that is stale is not necessarily of no value. When I was a boy on a farm, we used to unload a large load of bread in the shed and my father would gather the kids together to remove all the wrapping so that the bread would dry up and keep for the winter. I would like to remind this paper that when we toasted this bread, and reheated the plain donuts in our black stove, that it was fresh as the day it was baked.

The moral of this story is that the recommendations that were made at this gathering did deserve some merit to be decided by the people. I will name but a few suggestions that I

made that may have some merit. One, three bills to get to the bottom of sky-rocketing welfare costs. Two, limit out-of-state students at UNH resulting in lower tuition and a saving of millions to our taxpayers and students who pay tuition. Three, reorganization and consolidation of several state departments which would also save millions. I also suggested, at this meeting, the possibility of a plan that I have worked on for a few years on a self-supporting state prison for better rehabilitation of prisoners. I could go on and on. This newspaper has given good coverage of my bills to solve welfare abuses.

Finally, I would like to compliment the state's largest newspaper as truly representative of the silent majority of the people on most critical issues facing the state at this time. I do not like some of their methods nor the naughty pictures that they use to picture our Governor. They do publish both sides of the tax issue; on several times a week they publish the Governor's side of the story on the front page. I would like to state that I have never met this editor, nor have I talked to him. However, I would like to ask these gentlemen who is going to speak up for the mill workers, the shoe workers, the self-employed and thousands of other taxpayers? This man has been described as a big meany, but if his method brings out the truth, and we all know that nothing is more powerful than the truth, let's all be thankful that we have free speech in our beloved country.

In closing, I would hope that all news media would publish all the news and let the people decide what is best for all of us in this critical hour.

PARLIAMENTARY INQUIRY

Sen. KOROMILAS: I noted, in the past week, where a member has spoken under personal privilege and there was another member who alluded to the remarks made by the person who took the personal privilege. I only raise this question because I wonder whether in a point of personal privilege, a person, after hearing the person who is taking the privilege, can remark or comment after the person has spoken. I think this should be explained.

The CHAIR would state that there are no clear-cut guide lines under the use of personal privilege. We have frequently allowed great flexibility in the use of personal privilege. It's

main intent is to allow a member, who at least feels that he has been misrepresented, to state his views on the subject. It is not a category under which two members can enter into debate. I hope that at least partially answers your inquiry.

Sen. KOROMILAS: How broad is the power of the senator to speak under personal privilege outside of the area of misrepresentation by a news media.

The CHAIR would state that it was as broad as his colleagues would allow it to be.

PERSONAL PRIVILEGE

Sen. SPANOS: Mr. President, on the final day of the session last week, under personal privilege, I had some harsh words for the Governor's mournfully ineffectual political importunacy. Lamentable are the small intrigues and the acrobatics of those of us in quest of political favor. When good men stray from the path of equanimity, we are all demeaned by it, and the democratic process suffers. In such cases the political leader is deserving of censure.

But by the same token, when that leader responds to the anguished cries of human need with sensitivity, compassion and with enterprising resourcefulness, that person merits the commendation and approbation of his supporters and his detractors here and at home — and that is why (without retracting Thursday's comments) I arise this afternoon.

Thursday evening, almost as soon as I returned to my home from Concord, I received a telephone call from the distraught family of a young boy from Charlestown, N. H., who was hospitalized in Boston awaiting a kidney transplant. The information given to me was that unless the hospital was guaranteed (by Saturday) the costs of the operation and rehabilitation (\$40,000.00), the young lad would be turned away — and this could mean only one thing — “death at an early age.” The family had nowhere near such resources. They wanted to know — could the state help? I didn't know the answer — but I was determined to find out what we might do. The responsibility as to “whether one lives or dies” is the province of the Almighty. For man, it is a difficult burden.

Following my first impulse, I called Governor Peterson. I made many calls and finally, at 11:30 that night, he was con-

tacted, and the matter was fully discussed. The Chief Executive, displaying grave concern, immediately assigned a man full-time to the problem. The following morning, on his way to Lebanon, the Governor stopped by in Newport to see me. There was additional discourse and more telephone calls made. At noon of that same day, I received a communication from the Governor's office that the funds had been located and would be made available to guarantee the costs to the hospital. The operation will now become a reality and the youth given a new lease on life.

Mr. President, the Governor's action came like a fresh breeze sweeping away (for at least a moment) the stale air of the political atmosphere. It served as a restorative tonic for the public who see Government as being aloof from the "massy" side of politics. It identified with people. It was not a political act — but very much a human act.

In my opinion, this was one of the Governor's finest hours. Already much over-burdened, he took the time to show a warm, genuine concern for a troubled family and a weak, helpless and powerless 15-year-old boy. This was the involvement of a "good man," Mr. President, and in the final analysis, isn't this what it is all about?

As for me, Mr. President, thanks to his interest and effort I can sleep at night.

ANNOUNCEMENTS

The CHAIR would like to announce that in response to an inquiry of last week, arrangements have been made for a breathalator to be on exhibit here in the Senate Chamber tomorrow afternoon along with an expert from Rhode Island who will be prepared to answer any and all questions that the senators may care to put to him regarding HB 246.

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock.

LATE SESSION

Third reading and final passage

HB 126, extending the Good Samaritan Law to certain rescue and ambulance squads.

CA CR 15, Relating to: The Trial of Crimes.

Providing that: District Courts may try crimes committed in a county other than the county where the Court sits.

Division vote taken, the result being 22 Yeas, 0 Nay.

SCR 2, Pertaining to the study of the Criminal Code and the Uniform Consumer Credit Code.

Adopted.

Sen. Porter moved that the Senate adjourn at 1:55 o'clock.

Adopted.

Wednesday

31 Mar 71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

FATHER, we are grateful for the mercies which are new every morning; for the gift of refreshing sleep, for renewing health and strength, and for the vision of another day with its fresh opportunities of work and service. For all these and more, we offer thanks and turn, once more, toward You. Not without Your guidance would we go forth to meet the duties and tasks of this day. Strengthen us that in all our work we may be faithful to Truth, responsive to the needs of our "Granite State", and effective in our legislative stewardship. Amen.

Pledge of Allegiance was led by Sen. Jacobson.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 137, to amend hours of labor. (Lamontagne of Dist. 1 — To Ways and Means and Administrative Affairs.)

SB 138, to preserve the scenic beauty of town roads. (Nixon of Dist. 9 — To Resources and Environmental Control.)

SB 139, relative to trapping fisher. (Nixon of Dist. 9 — To Recreation and Development.)

SB 140, to increase workmen's compensation benefits. (Lamontagne of Dist. 1 — To Ways and Means and Administrative Affairs.)

SB 141, relative to the practice of optometry. (Nixon of Dist. 9 — To Public Health, Welfare and State Institutions.)

SB 142, allowing full-time classified employees time off for personal business. (Smith of Dist. 15 — To Ways and Means and Administrative Affairs.)

SB 143, clarifying and making co-equal the terms, shares and deposits and shareholders and depositors under chapter 393 regulating building and loan associations. (Smith of Dist. 15 — To Banks, Insurance and Claims.)

SB 144, relative to the limitations on the loaning authority of cooperative banks, building and loan associations and savings and loan associations. (Smith of Dist. 15 — To Banks, Insurance and Claims.)

SB 145, relative to construction attachments. (Morrisette of Dist. 16 — to Public Works and Transportation.)

SB 146, authorizing the prosecution to take depositions of certain witnesses in criminal cases. (Koromilas of Dist. 21 for the Judicial Council — To Judiciary.)

SB 147, relative to the voluntary retirement of supreme and superior court justices. (Leonard of Dist. 13 for the Judicial Council — To Judiciary.)

SJR 12, relative to retirement credit for Alexander P. Lewko. (Spanos of Dist. 8 — To Ways and Means and Administrative Affairs.)

SJR 13, making a supplementary appropriation for the Liquor Commission for fiscal year 1970-71. (Smith of Dist. 15 — To Finance.)

HOUSE MESSAGES INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 211, to provide for treatment of minors for drug abuse

without parental consent. (Public Health, Welfare and State Institutions)

HB 322, relative to dogs pursuing game. (Recreation and Development)

HB 407, to clarify the aircraft operating fee formula. (Public Works and Transportation)

HB 426, clarifying the powers of assistant moderators to administer oaths. (Executive Departments, Municipal and County Governments)

HB 452, relative to federal aid for airport and airway development. (Public Works and Transportation)

HB 454, amending the definition of an air navigation facility. (Public Works and Transportation)

HB 490, relative to the New Hampshire annual conference of the Methodist Church. (Executive Departments, Municipal and County Governments)

HB 517, relative to the name of cooperative banks, building and loan associations or savings and loan associations. (Banks, Insurance and Claims)

HJR 31, providing for taking the sense of the legal voters of the State on the question of calling a Constitutional Convention (Executive Departments, Municipal and County Governments)

FURTHER MESSAGE FROM THE HOUSE CONCURRENCE BY THE HOUSE ON SENATE BILL

SB 45, relative to the purposes of issuance of bonds or notes.

NON-CONCURRENCE BY THE HOUSE ON HOUSE BILL WITH AMENDMENT AND REQUEST FOR A COMMITTEE OF CONFERENCE

HB 126, extending the Good Samaritan Law to certain rescue and ambulance squads.

The Speaker has appointed as members of said Committee of Conference on the part of the House of Representatives Reps. Trowbridge, Cate and Theriault.

On motion of Sen. Nixon, the Senate voted to accede to the request for a Committee of Conference.

Adopted.

The Chair appointed as members of said Committee on the part of the Senate, Sens. Nixon and Downing.

HOUSE CONCURRENCE WITH AMENDMENT TO SENATE BILL

SB 25, modifying the requirements for membership on a Municipal Budget Committee.

Sen. JACOBSON: I move that we non-concur and that the President of the Senate appoint a Committee of Conference.

Adopted.

The Chair appointed Sens. Jacobson, Poulsen and Marcotte as conferees on the part of the Senate.

ENROLLED BILLS REPORT

HB 16, permitting charitable organizations to hold raffles.

HB 49, relative to the unauthorized removal of national or state flags while they are on display.

HB 137, relative to absentee voting by members of armed services.

HB 146, relative to service roads constructed by the state in conjunction with limited access facilities.

HB 171, establishing the time of the annual public hearing relative to the powers and duties of the Fish and Game Department.

SB 8, providing that encumbered appropriations of tolls collected on Central New Hampshire Turnpike shall not lapse until the object thereof is accomplished.

SB 9, providing that encumbered appropriation of tolls collected on Eastern New Hampshire Turnpike shall not lapse until the object thereof is accomplished.

SB 42, increasing the membership of the Commission Advisory to the Commissioner of Resources and Development and

making the Commissioner of Public Works and Highways a member.

HJR 1, providing additional funds for Board of Professional Engineers.

Sen. Provost
For The Committee.

COMMITTEE REPORT

SB 20

providing for the regulation of community antenna television system. Ought to pass with amendment. Sen. Lamontagne for Judiciary.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

providing that community antenna television rates be regulated

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Regulating Community Antenna Television System. Amend RSA 362 by inserting after section 2 the following new section: 362:2-a Rates on Community Antenna Television Systems. The supervision and regulation of community antenna televisions systems by the commission shall be restricted exclusively to approving or disapproving the rates charged to subscribers for such service, and for no other purpose. All commission expenses incurred in complying with the provisions of this section shall be reimbursed pursuant to the provisions of RSA 365:38.

Effective Date. This act shall take effect October 1, 1971.

Sen. LAMONTAGNE: Mr. President, the only thing that the amendment does is regulate the cable tv's throughout the whole State of New Hampshire on rates.

Sen. S. SMITH: Sen. Lamontagne, in the establishment of this power, setting rates on television cables, does this not re-

quire an expenditure of funds due to the setting up of some authority to administer this law?

Sen. LAMONTAGNE: Senator, let me say that I should have added to the amendment that it also provides that the cable tv would pay the expenses and therefore would not need an appropriation.

Sen. SMITH: Does not the appropriation have to be made and establishment of fees and so forth by the Legislature?

Sen. LAMONTANGE: No, it does not. The only thing is that it regulates the present rates that the different cable tv's have throughout the State of New Hampshire. We have many companies and the different companies have different rates. The thing is that before they can get another increase in their rates, they would have to go to the Public Utilities Commission and the expense will be at the expense of the cable television companies.

Sen. S. SMITH: Is there any machinery set up whereby rates should be established for this service to be paid by the television cable people?

Sen. LAMONTAGNE: The present rate will stay as they are because there are different types of rates in different companies. For instance, in Berlin, the rates for those that have given the contribution for the cable tv in the amount of \$125.00, these people have to pay a rate of \$4.50 per month. Those who did not go under the contribution of \$125.00, pay \$5.00. Those rates will stay as they are, but if the company wants to increase the rates, they will have to, if this bill is passed, apply to the Public Utilities Commission and ask for a change in their present rates. They will have to cover the expense of what the PUC would have to spend in order to work out the additional rates.

Sen. FERDINANDO: Mr. President, I move that SB 20 be indefinitely postponed. I say this because my understanding is that the cable tv franchise to the State of New Hampshire wouldn't be any different than a MacDonal'd franchise or a Texaco franchise. It's sort of a free enterprise. As far as regulating the rates, I have two cables and pay \$5.00 a month for one television and \$1.00 on the next one. This is strictly a voluntary gesture. If anyone is willing to pay \$6.00 a month or

\$5.00 a month, they can pick up three or four added channels. As long as these are independent businessmen who are running businesses, trying to earn a living in the State of New Hampshire, to regulate it at this time doesn't make any sense. I don't think the merits are there and my understanding is that the FCC is supposedly considering in what category they are going to put cable tv's but as long as they need an increase in rates to stay in business and people are willing to pay it, they don't have to have it if they don't want to pay the increase. For that reason I would hope the Senate would consider that it be indefinitely postponed.

Sen. KOROMILAS: Do you think it's mandatory to have a telephone?

Sen. FERDINANDO: I don't believe that the essentials and categories are similar, senator. A telephone is almost a necessity today, but whether or not cable tv is a necessity is questionable. If someone wants to watch channel 8 in Maine, they should be entitled to pay for it.

Sen. KOROMILAS: Are you familiar that there are some areas in New Hampshire where you can't get any reception whatsoever without a cable?

Sen. FERDINANDO: I would say that in these cases, the people at least have an option if they want to watch the standard channels and are willing to pay the \$4.50 a month or whatever it might be, I would think that as a free enterprise, they should be supported. It is a good point.

Sen. MORRISSETTE: I would like to know, for example in our city, there is only one cable tv company?

Sen. FERDINANDO: My understanding is that there is only one in Manchester.

Sen. MORRISSETTE: What is going to happen later on after they get most of the cities set up if they are permitted to charge anything they want? How are we going to regulate it? They could charge you \$10.00 a month if they want.

Sen. FERDINANDO: Senator, in answer to that, if you were willing to pay \$10.00 a month, all you have to say is that I don't want it anymore. Take it out! If it was mandatory, it would be one thing but as long as it is optional, service for the public should be what they want.

Sen. MORRISSETTE: But then they would be deprived of a large number of channels that they can only get through cable tv.

Sen. FERDINANDO: I don't believe that they would be deprived. The only way that an increase is apt to take place is if they found some way to pick up another fifteen channels..

Sen. MORRISSETTE: Wouldn't you agree that they are a monopoly, though?

Sen. FERDINANDO: Well, there is only one MacDonal'd's hamburger in the city of Concord as far as I am concerned.

Sen. JACOBSON: Did I understand your testimony that the definition of a monopoly, as you understand it, is the mandatory quality?

Sen. FERDINANDO: Pretty brief.

Sen. JACOBSON: Would you argue that milk is probably mandatory for everyone at one stage of life?

Sen. FERDINANDO: I would probably say that it falls in that category, senator.

Sen. JACOBSON: On the basis of that argument then, would you agree that we should establish regulatory agencies for the price of milk?

Sen. FERDINANDO: Not really. I don't think that would be necessary.

Sen. LAMONTAGNE: Mr. President, I rise in opposition to the pending motion. Personally, I feel, and I would like to use the City of Berlin as an example, that this can occur throughout the whole State of New Hampshire. Berlin Paper City TV is one of the oldest cable tv systems in New Hampshire and at the time when it first started, the people of the City of Berlin paid \$125.00 and it was agreed to be \$2.50 per month. After a while, the price increased to \$3.50 per month and still the people didn't say too much until it reached the price of \$4.50, making only a 50 cents difference between those who did not pay the \$125.00. In other words, those who have given this contribution (I call this a contribution because they got nothing back in return) were greatly disturbed and asked me to put in some type of control so that the prices would not go up anymore unless they went through the Public Utilities Commission.

Therefore, the bill you now have, which has been amended only with regards to the rates so that it would be under the Public Utilities Commission, doesn't prevent any cable tv company from applying to the Commission for an increase if they can show a good reason why it needs to be increased.

A cable tv is a utility! If the telephone companies and public service can be regulated, then I cannot see why cable tv can't be regulated too on its rates.

Sen. FOLEY: I believe that any:

1. State regulation at this time would be premature.

The Federal Communications Commission has already regulated the technical aspects of cable television and is holding hearings on further regulation. The U. S. Supreme Court has ruled that the F.C.C. has primary rule making power over this industry and until these hearings and findings are complete, any State regulation is premature.

2. Cable television is not, at this time, a Public Utility.

The two basic features of a Public Utility are that it is a *monopoly* in the product it sells and that the product is a *necessity*.

CA TV's product, at this time, is the delivery of improved quality television reception to the consumer. The facts show that the homeowner has a free choice, in most cases, between subscribing to a cable system or purchasing and installing his own television antenna. This marketplace competition has kept the monthly cost relatively stable and uniform through the State for 15 years without PUC regulation. In addition, television reception is not a necessity in the sense of water, electricity, telephone, or fuel.

3. PUC regulation in other states has not reduced rates and expansion of the systems has stopped.

Four states (Connecticut, Nevada, Rhode Island and Vermont) have regulated CA TV as a Public Utility. In one state, Connecticut, the regulation is 8 years old. In none of the states have rates been reduced nor has there been any extension of the systems since PUC regulation.

4. Potential local abuses can be regulated by the towns and cities.

The towns and cities of New Hampshire have and are negotiating contracts with the CA TV companies servicing their localities to provide for local considerations such as service to the schools, etc., and PUC regulation is not necessary to accommodate these needs. An example is the City of Portsmouth contract which regulates at the local level to accommodate local needs matters such as:

1. Territory
2. Liability insurance
3. Quality
4. Maintenance
5. Service to schools and other public buildings
6. Emergency use of facilities
7. Safety requirements
8. Rates
9. Number of channels
10. Local origination studio

This bill, as amended, will not regulate service — will not regulate territory nor quality. The PUC cannot make CA TV extend lines into areas; they can only approve or disapprove rates.

Different companies have different lines — different numbers of channels, different business methods — different holdings — and it would be highly improbable that the PUC make a fair judgment on rates without extensive background and expertise which they do not have and there is no appropriation to help them get it.

For these reasons I support indefinite postponement.

Sen. S. SMITH: Mr. President, I rise in support of the pending motion. The senator from the Twenty-Fourth District gave a very complete analysis of the situation. My feeling on this bill is that in effect, what we are doing is regulating one aspect of an industry. I don't think that you can regulate a portion of an industry without regulating many other factors within the industry as is done by the Public Utility Commission in other areas. What we are doing, in effect, is attempting to regulate one

factor and leaving the other factors as variables which can vary from area to area. I am also concerned in regards to the aspects of the financing of this. I cannot believe that the Public Utilities Commission can regulate rates alone without other information, basic information, comparing one service with another. I think to do so will require personnel and staffing to make this law a functioning law.

The third aspect is that we do regulate necessities such as water, gas, but I hope that our society has not reached a point where television has become a necessity.

Thank you, Mr. President.

Sen. NIXON: Mr. President, I rise to speak in opposition to the pending motion to substitute the words "indefinitely postpone" for the report of the Judiciary Committee recommending that the bill pass. The issue whether or not cable tv should be regulated in this, or any state, is one of profound and deep consideration. This bill does not purport to reach all of the profundities of that issue. It was intended to be, if you will, a first step; a means by which New Hampshire, through its Public Utilities Commission on behalf of its citizens, would have some small voice in the operations of an enterprise which everywhere, where the question has been legally raised, has been defined as being in the public interest to a degree sufficient to be described as a public utility.

We do not have, and I do not represent to you, any substantial problems in New Hampshire at this time with respect to complaints about rates or about service in this area. It seems to me that with the background, and in terms of the testimony before the Committee, copies of the extensive legislation enacted in some other states and the proposed model legislation and with the testimony and opinions that you have heard expressed today about the complexity of this matter and the fact that small towns and cities are now left on their own, so to speak, that this is an area of so much complexity and expertise. It was the Committee's feeling that the Public Utilities Commission should have the authority to enter into the rate regulation area, in the first instance, and it would be a very modest step in the direction of eventually, regardless of what we do here today, of what will result in the complete regulation of the CA TV industry in this and every other state. It is a political

battle in every state, as it is in this state to a minor degree, at least at this point. I would hope that you would support the Committee report and act affirmatively on the bill before you today.

Sen. TUFTS: Would you regard this as a protection for the citizens of New Hampshire; a sort of a consumers' protection measure which the Committee has considered?

Sen. NIXON: Yes I would, Sen. Tufts.

Sen. FOLEY: I just wondered what commission or department in the State of New Hampshire has ever taken on an additional duty, and I believe this is a magnitudinal duty that they don't really know too much about, to regulate something that they have admitted they don't know and do this for the love of the work and not ask for a desk, for a chair, a secretary, a consultant, or anybody else to do it. They're just going to do it without any additional money. I would like to know anybody that ever offered to do anything for us without any type of reimbursement.

Sen. NIXON: In the first place, our Public Utilities Commission has not ignored this area or just let it go without keeping tabs on what is happening in this state and also what is happening with respect to the FCC. There is some knowledge in the Utilities Commission and the Commission has testified, as did their engineer before our hearing, as to the operations of the CA TV companies in New Hampshire. In the second place, as to the financial end of it, the last line of the amendment provides that all expenses incurred shall be reimbursed by the CA TV companies involved. Again, it was not felt by the Judiciary Committee that this rate regulation would be a very extensive type thing. It would not require the addition of new personnel or new desks or other equipment at this time, we believe.

Sen. GARDNER: If the companies concerned must assume this responsibility, will they not, in turn, pass the expense on to the consumer?

Sen. NIXON: I think they will if the Commission finds that their request for the increased rate is justifiable, but only if the Commission, which acts in the public interest, so finds. Then in that respect the proposal before you is no different than the existing law.

Sen. FERDINANDO: Would this not be similar to the local grocer who wanted to increase his hot dog or his hamburg poundage price to have to go to a Commission, which, in effect, after they digested whether or not he needed an increase to keep his family going or to keep the store in operation, to find that the expenses would then be borne by him — would this not be a similar situation, senator?

Sen. NIXON: Well, it would be similar in the sense that a camel is similar to a horse — they both walk on four feet and can go a long distance. But in the case of the distinction between the neighborhood grocery and the cable tv situation, you have, after a cable tv operation is established in a particular area, as Sen. Morrissette astutely pointed out, in fact, for practical purposes, a monopoly because once it is in the area, it is not economically feasible for another company to come in to that area and solicit same or near-by customers. It is, to that extent, a little bit different from the neighborhood grocery. It can raise its rates so to speak. That is why it was felt that rate regulation, on a state-wide basis, would be enough in the public interest to overcome the inconvenience that might be suffered by the private interests that have invested in CA TV Companies.

In that respect, there is another difference. CA TV is an initial investment situation. In other words, a lot of money is laid out in the first instance, but after that, the operating expenses, I think it was agreed, are relatively minimal. You have a situation where rate regulation is most important in the public interest because of this added consideration.

Sen. KOROMILAS: Mr. President, I rise in opposition to the pending motion to indefinite postponement. I think that the distinguished senator from the Twenty-Fourth District did make a few points; that is, how he can one really understand the features of cable television. I have been wondering how a city or a small town has the wherewithal to find a person who is competent to determine the question of rates. Each city and town, at the present time, has that particular authority to approve or disapprove of rates. I wondered, during the Committee hearings, who, in the city or town, knows so much about CA TV? It seemed to me that the Public Utilities Commission was much more qualified and with much more expertise to determine rates because, after all, that's what they do most of the

time with respect to telephone and also public power, water, etc.

I have heard it said today that this is going to be some kind of a fed-up on free enterprise. I reject that type of thinking. I feel that, under the present circumstances, CA TV has become a big industry. We haven't seen the magnitude as yet. It's a young industry and it's going to grow. It has many potentials so I think now is the time to regulate it to a very limited extent.

Gentlemen, I think the bill reads, "shall approve or disapprove increases." And it says, "for that special purpose only." It's not left to conjecture. It's specifically stated in the amendment that the only authority that the Public Service Commission has on CA TV is to approve or disapprove rates. What troubles me most of all is that some of the contracts that are now being given to CA TV are becoming exclusive. In other words, when a CA TV company goes to a town, some of the contracts are now including a term that says that that particular CA TV has an exclusive right on CA TV in that particular area for sometimes as long as twenty years! I think that that is tying the hands of the city. Of course, the city does have the right to approve or disapprove rates, but I said, how can one expect some town that has given CA TV a license for a franchise to know what rate-making is all about?

Sen. MORRISSETTE: I would like to speak against the motion for another serious reason that we have. We have about twenty thousand people living in these three deckers, six apartment houses with flat roofs. You used to have five and six antennas on top of the roof so many landlords have come up with the regulation of no more antennas because they were destroying the roofs. Once you have cable tv in the building, you can't put your own antenna up so we have a problem with these rabbit ears. You only get one channel. We must think of these people too. Most of them are mill workers, shoe workers and it's not a necessity for them to have tv but it is good for them and for their children and it keeps them busy. As much as 75% of the women work out of necessity so it would be too bad to deprive them of tv because of the rates going up. I guarantee you that they will if you don't come up with some kind of regulation. Let's give some thought to these people in apartments also.

Sen. DOWNING: Mr. President, I rise in support of the motion. As a member of the Judiciary Committee who studied

this bill, and while I did not feel strongly enough about it — to offer a Minority Report, I feel that the body should have the benefit of the reasons behind by thinking of not supporting it.

Number one being that there was no substantial evidence offered in testimony relative to any abuses by the industry.

Number two, both the Public Utilities Commission and the members of the industry recognized that in the future, this is an industry that perhaps should be regulated by the Public Utilities Commission. However, they both agreed that the time was premature to regulate it now and could have an adverse affect on the industry.

Sen. JACOBSON: Mr. President, I rise in opposition to the pending motion and in support of the Committee report. I will be very brief and talk only to the point of what is a monopoly.

There has been a lot of fallacious statements made about what is a monopoly in relation to necessity. We have many necessities in life which are not under a monopoly, in fact we all eat. There isn't one food product that is under a monopoly regulation at this time. Sen. Foley said something about the necessity of fuel. I don't believe fuel is under monopoly regulation at the present time. The history of this comes from two streams; one, from the Sherman Anti-Trust Act which moved against what we called the development of natural types of monopolies by the exclusion of competition in order to keep prices from rising up by monopolizing. The other history has come from the Inter-State Commerce Commission Act which saw the need to regulate certain kinds of monopolies wherein if you allowed free competition, you would create a condition of chaos. That is the basis on which the Public Utilities Commissions have been established in all fifty states in order to regulate these services and industries where a competitive situation would develop which would be destructive to the public interest. Therefore, we only have one water company in one town. Can you imagine if we had six water companies in one town, the trouble we would have? We have only one sewer situation; we have only one electric power company in a community. Can you imagine if we had six power companies competing? What a chaos of lines and power there would be! We have only one telephone company in a community in order to prevent the chaos and confusion that would result in competition.

Cable TV has the same kind of characteristic. Whereas if you allowed a competitive situation where six or seven companies would be competing in the same community, you would create a chaotic condition which would not be in the public interest. Therefore it has the same characteristics as water, sewer, light and telephone.

Sen. POULSEN: I rise in support of Sen. Ferdinando's motion. This is a new industry. It hasn't shown any great need to be regulated and I think to regulate something before it shows a need is wrong.

Sen. LEONARD: Mr. Chairman, I rise in opposition to the motion. All the reasons presented to the Senate today were considered by the Committee and that's why we voted not to regulate the whole industry and just the rates. As Sen. Lamontagne indicated, there are areas in the mountainous sections that rely exclusively on cable tv and they are at the mercy of any company that wants to double the rates overnight. We are not punishing the company, we are not going to affect their business. If they show a need for a rate increase, they will get one. I disagree with Sen. Poulsen when he said that we should wait until the horse is stolen before we regulate things. This is like preventive medicine. We are taking a step with foresight and I don't see how anyone is going to be hurt and the public will be protected and that is why we are here.

Sen. FERDINANDO: I would just like to make some remarks about Sen. Jacobson. The concern for having six or seven companies being in chaos — there isn't any question by anyone who has any kind of a course in economics that having this many companies in one field could only tend to lower the price.

Sen. FOLEY: Mr. Chairman, just a few remarks. First of all, we had a group of three people that took about six months studying the idea of cable tv and prepared a sample contract that they drew up with our own city solicitor and I believe we had seventeen companies that came in and asked to be allowed in the area. They picked the one that gave the best deal for the money that was offered. We control the price of the cable tv and I can't understand why that tv doesn't have, in their contract, some control over the amount of money monthly that is paid. I wonder why, if they don't have it, that they don't put it in. This doesn't seem possible that they would give a company the

right to a monopoly after they have decided which company it is going to be, and decide on the price. I don't know what other cities have done, but we took the company that gave us the best price and agreed that this was to be the price and was not going to change. I don't understand why this hasn't been done in other places. I do feel that we have a rate, we have given a rate, now the state is going to come in and control our rate. I am wondering what kind of legal difficulties some of us are going to get into because the state is stepping in when I believe the state has enough problems already.

Sen. NIXON: Would the able senator from the Twenty-Fourth District be willing to agree that the enlightened City of Portsmouth, with its progressive and advanced leadership, with the multitude of resources and legal talent available, might be in a better position to deal with the cable tv situation than the poor little Town of New Boston?

Sen. FOLEY: No, I don't; because we don't have anyone of your caliber in our city. We don't have anyone with the name of Nixon as lawyer in our city but we would welcome you.

Sen. JACOBSON: I believe you stated you had seventeen companies make application and that you chose one. Why not, in the interest of competition, didn't you allow all seventeen to operate?

Sen. FOLEY: For the same reason, sir, that you said we had one telephone system. It is a different company from those in Concord and Manchester but they are all one in each city for the very reasons that you gave.

Sen. JACOBSON: Is there only one telephone company in the State of New Hampshire and only one utility company with power and light?

Sen. FOLEY: In my area there is.

Sen. S. SMITH: Mr. President, I come from one of the hill communities that was mentioned earlier. We have had cable television in Plymouth for four or five years. We are not honored in having a Sen. Nixon or a Sen. Foley living in our community and yet I have yet to hear one complaint relative to the existence of cable tv and until there is a demonstrated need for regulation, I see no need for setting up such authority.

Sen. TUFTS: Don't you think that perhaps the regulation by the City of Portsmouth is a good argument for the regulation otherwise?

Sen. S. SMITH: Not necessarily, no.

Sen. PORTER: Under Rule 42, I wish to be recorded as not voting.

Sen. GARDNER: I rise in support of SB 20 and hope that the Senate will concur.

Division vote taken, the result being 9 Yeas and 11 Nays, the motion is lost to indefinitely postpone.

Amendment adopted. Ordered to third reading.

SB 58

to prohibit any special justice or associate justice of a district court from practicing law in any district court. Ought to pass with amendment. Sen. Nixon for Judiciary.

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

to prohibit any special justice or associate justice of a district or municipal court from practicing law in any district or municipal court.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Special and Associate Justices. Amend RSA 502-A:21 as inserted by 1963, 331:1 and as amended by 1967, 438:3 by striking out the same in its entirety and substituting the following therefor: 502-A:21 Disqualifications of Justices, etc. No justice, associate justice, special justice or clerk of any district or municipal court shall be retained or employed as attorney in any action, complaint, or proceeding pending in his court, or which has been examined or tried therein. No such justice, associate justice or special justice shall be retained or employed as an attorney in any matter pending before any other district or municipal court. No attorney shall be permitted to practice before any district or municipal court where any justice thereof is associated with said attorney in the practice of law. No justice whose salary exceeds fifteen thousand dollars per year shall be permitted to engage in the practice of law to any degree.

2 Effective Date. This act shall take effect sixty days after its passage.

Sen. NIXON: Mr. President on page 30 of today's *Journal*, there is an incorrectly printed version of the Senate amendment. What was passed out to you a few minutes ago is the correct version of the Senate amendment. Referring to the bill itself — at the present time, existing law prohibits a justice of a district court from practicing in his own court and also from practicing law in any other district court. The present law also prohibits a special justice, who is the second man, so to speak, on a district court, from practicing in his own court; the court in which he sits as a judge. The bill that was introduced into the Senate would have prohibited the special justice of a district court from practicing in any *other* district court also. The Senate Judiciary Committee heard the evidence pro and con in regard to the bill. I should state frankly that the bill was opposed by the Administrative Committee of the District and Municipal Courts on the theory that if part-time judges were prohibited from practicing in other district courts, in addition to their own district court, then it would be difficult, if not impossible, to find capable lawyers to fill these roles.

However, I think the Judiciary Committee was impressed by the fact that lawyers who serve as part-time judges enjoy, in the eyes of the public, a ranking a little higher than other lawyers and in addition, members of the public are sometimes discomfited to see the judge who sat on their speeding ticket case one day appearing as counsel for an adverse party in a civil matter the next day. In other words, it was felt that the public does not gain respect for the judicial system when it sees men sitting as judges one day and practicing law in the same strata of courts the next day as lawyers. For that reason, the Committee amended the bill so that it would prohibit any special justice of any district court from practicing in his own district court, any *other* district court or any *municipal court*. It would also prohibit any justice of any municipal court from practicing in any district or other municipal court. The idea behind the amendment being to prohibit those people who have the benefit and the esteem of being judges from also practicing as lawyers before courts of the same rank and station. That is the essence of the amendment and the Committee report which I submit to you is "ought to pass with amendment" and I recommend that we ought to take affirmative action on this report.

Sen. SPANOS: Mr. President, I guess I could invoke Rule 42 and avoid the issue before us as I happen to be Special Justice of the Newport District Court. However, I will not.

I feel that it is a good bill and will serve "justice" in every respect. We create a disrespect for the law when we permit a judge to be a judge in one court and an advocate in another. The system becomes suspect by the public.

As for making it impossible to recruit competent attorneys to serve as special justices, that limitation is a matter which each attorney considers when he allows the Governor to submit his name for confirmation.

Sen. ENGLISH: I, too, am in favor of the bill as amended. I think Sen. Nixon referred to this and it also has been hinted at, the Committee was unanimous in the feeling there would not be difficulty in obtaining men to secure this position. The chief objection to the bill was that there might be difficulty in securing people to take this position.

Sen. FOLEY: I rise in support of the bill and I would like to congratulate Sen. Nixon on the wonderful way he described it.

Amendment adopted. Order to third reading.

SUSPENSION OF THE RULES

Sen. JACOBSON: Mr. President, I move that the rules of the Senate be so far suspended so as to permit the introduction of a committee report not advertised in the *Journal*. This deals with HB 242 which has to do with the re-registration and recertification of all checklists in the state. The date for doing that, according to the legislation passed in the 1969 session, is tomorrow. There has been general agreement that it ought to be postponed and therefore, I am asking for suspension of the rules to bring in this Committee Report so that the Secretary of State may have the opportunity of informing the people that they do not need to proceed further.

Adopted.

COMMITTEE REPORT

HB 242

providing that the re-registration of voters be postponed until 1974 and establishing a committee to study and report on

the form of checklists. Ought to pass. Sen. Jacobson for Executive.

Sen. JACOBSON: As those senators who were here in the last session will recall, we passed a bill, I believe sponsored by Sen. Townsend, which would call for the re-registration and recertification of all voters on the checklist throughout New Hampshire. However, since that time, new complications have developed. First of all, we had a population census which will require the re-drawing of ward lines in the various cities of New Hampshire.

Secondly, the eighteen-year-old vote question has come up and as you know, we have passed in this body, which is now in the House with amendment, which would allow eighteen-year-olds to vote in state and local elections. With this in mind, the Committee felt, and it has the support of the Secretary of State and many local officials, that this re-registration and recertification should be postponed to a later date — 1974 and also to provide for a committee to be established which will consist of eleven members from the public appointed by the Governor, one member appointed by the President of the Senate, three members appointed by the House to make a study of the methods and guidelines to be used in achieving this very important goal of re-registration and recertification and this committee is to report in the next session of the legislature at the beginning of 1973.

Sen. TOWNSEND: Mr. President, I rise with some reluctance to support this measure. I do so because I feel so strongly that this re-registration is needed. At the same time, I recognize the fact that we are seeing some radical changes in respect to eighteen-year olds being permitted to vote and the need for having a standardized checklist I am sure will far out-weigh the need for re-registration. Therefore, I am going to support this measure.

Sen. DOWNING: Mr. President, I would like to speak in support of the motion. Representing a community that would be affected considerably if the date were not changed, it becomes very reasonable that the report be accepted and that the program be put off until 1974 when it could be done much more comprehensively than it could be done now.

Adopted. Ordered to third reading.

Sen. Spanos moved the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock.

Adopted.

LATE SESSION

Third reading and final passage

SB 20, providing that community antenna television rates be regulated.

SB 58, to prohibit any special justice or associate justice of a district or municipal court from practicing law in any district or municipal court.

HB 242, providing that the re-registration of voters be postponed until 1974 and establishing a committee to study and report on the form of checklists.

Adopted.

Sen. Snell moved the Senate adjourn at 3 o'clock.

Adopted.

Thursday

1 Apr 71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

O GOD, our Father, as we review the coming events of Palm Sunday, and as Christians around the world celebrate the festive entrance of Jesus into Jerusalem; keep us from being enamored by the "hosannas" of today which can so easily turn into the shouts of "crucify" when good men are silenced by fear for their own place and station. Grant us the vision to see and to understand the ills of our society, then give us the strength

and courage to speak and act against that which is wrong, as did Jesus in His ministry. Amen.

Pledge of Allegiance was led by Sen. Provost.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 148, to require voting on each office. (Nixon of Dist. 9 — To Executive Departments, Municipal and County Governments.)

SB 149, relative to election procedures of the Contoocook Valley School District. (Nixon of Dist. 9 — To Executive Departments, Municipal and County Governments.)

INTRODUCTION OF SENATE RESOLUTION

First, second reading and referral

Senate Resolution proposed by Sen. George Morrissette of District 16. (Rules and Resolutions)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 104, to provide life insurance for national guardsmen while on active state duty. (Banks, Insurance and Claims)

HB 270, providing a penalty for failure to comply with requirements for construction and inspection of public buildings. (Public Works and Transportation)

HB 387, extending the time within which pari-mutuel pools may be sold. (Ways and Means and Administrative Affairs)

HB 392, establishing an interim committee to study the problems of lowering the age of majority from twenty-one to eighteen years of age. (Judiciary)

HB 429, prohibiting the renaming of certain natural and man-made formations in the state. (Resources and Environmental Control)

HB 468, clarifying the provisions of the statute that tax deeds shall be given by the collector in office. (Executive Department, Municipal and County Governments)

HB 482, relative to bail commissioners. (Judiciary)

HB 508, exempting certain temporary heliports from registration under the provisions of the Aeronautics Act. (Public Works and Transportation)

HCR 12, relative to a study of elections laws. (Executive Departments, Municipal and County Governments)

HOUSE CONCURRENCE ON SENATE BILL WITH AMENDMENT

SB 5, providing payment to persons for loss of existing mortgage financing where such persons are displaced as a result of highway activities.

Sen. POULSEN: Mr. President, I move that the Senate concur with the House in this amendment. This amendment was introduced by Sen. Lamontagne and only changes the dates so that it is retroactive to January 2, which makes it comply with the federal end of the stipulation.

Sen. LAMONTAGNE: Mr. President, I would like to say that the honorable senator from the Fifteenth District brought to my attention that the bill was not retroactive to January 2 and therefore, I have met with Commissioner Robert Whitaker and also with Stan Otis of Rightaway and I was told that there were only three homes involved in making it retroactive to January 2. Therefore, after the recommendation from the senator from the Fifteenth District, I asked the House Public Works Committee to amend the bill making it retroactive to January 2.

Motion for concurrence adopted.

HOUSE CONCURRENCE ON SCR

SCR 2, pertaining to the study of the Criminal Code and the Uniform Consumer Credit Code.

MESSAGES FROM ENROLLED BILLS COMMITTEE

ENROLLED BILLS WITH AMENDMENT

HB 87, relative to the penalty for guiding an unlicensed hunter. Ought to pass with amendment. Sen. Provost for the Committee.

AMENDMENT

Amend section 1 of the bill by striking out lines two, three and four and inserting in place thereof the following:

29:2 and 1969, 8:1 by striking out said section and inserting in place thereof the following:

Amendment Adopted.

242, providing that the re-registration of voters be postponed until 1974 and establishing a committee to study and report on the form of checklists. Ought to pass with amendment. Sen. Provost for the Committee.

AMENDMENT

Amend the title of the bill by striking out line two and inserting in place thereof the following:

until 1973 and establishing a committee to study

Amend section 2 of the bill by striking out lines fourteen and fifteen and inserting in place thereof the following:

gaged on the business of the committee, shall be entitled to the same mileage as state employees. The governor is authorized to draw his warrant for the payment of such mileage out of any money in the treasury not otherwise appropriated.

Sen. JACOBSON: Mr. President, this bill was under the duress of the time element in order to stop the initiation of the program which was to have begun today in regards to recertification and re-registration of all checklists in New Hampshire. The bill, as it came from the House, forgot to change the title of the bill from 1974 to 1973 but the body of the bill talks only about 1973 but the title talks of 1974 so that is one technical change which took place.

The other technical change took place in regards to the funding that is to come out of the Governor's Fund. That was an error and the technical change was to provide that it come out of the Treasury out of funds not otherwise appropriated. Those are the two technical changes that took place and I conferred with Rep. Maurice MacDonald of the Committee on Statutory Revision in the House on these matters and we agreed that those would go through without having to go through the House as an amendment process. I might also add that we are

adding some other amendments to this bill as a trailer to some other bill in the future because there are some other difficulties that needed to be corrected. But, the purpose was to stop the program of recertification and re-registration from proceeding and that is why we passed the bill in this garbled fashion.

Amendment adopted.

The House of Representatives has voted to adopt the Enrolled Bills amendment:

HB 87, relative to the penalty for guiding an unlicensed hunter.

ENROLLED BILLS REPORT

SB 45, relative to the purposes of issuance of bonds or notes.

Sen. Ferdinando
For the Committee.

Sen. PORTER: Mr. President, I move the order whereby SB 110 was referred to the Committee on Resources and Environmental Control be vacated and referred to the Committee on Executive Departments, Municipal and County Governments. The content of SB 110 is quite similar to SB 78 which is already being acted upon by the Executive Departments Committee and it was felt, in the interest of conservation of energy, we might vacate this and let them proceed forth.

Adopted.

COMMITTEE REPORTS

HB 84

relative to the deposit of funds with the State Treasurer by the Fish and Game Department. Ought to pass with amendment. Sen. S. Smith for Executive.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

relative to the deposit of funds with the state treasurer by the secretary of state or the fish and game department.

Amend section 1 of the bill by striking out the same and inserting in place thereof the following:

1 Fish and Game Receipts. Amend RSA 6:11 (supp) as amended by 1965, 239:13 and 1967, 379:7 by inserting in line ten after the words "department of safety" the words (the secretary of state or the fish and game department) so that said section as amended shall read as follows: 6:11 Payments to Treasurer. All state departments and institutions, except the New Hampshire College of Agriculture and the Mechanic Arts and the University of New Hampshire, and the building projects revolving fund of the State Board of Education, receiving money for the state from sources outside of the State Treasury, shall pay the full amount of all said moneys intact into the State Treasury weekly, or as much oftener as the Governor and Council shall direct, with a full and detailed statement thereof, including the date of and the source from which the same was received and the consideration therefor. Provided, however, that any check, draft, or money order received by the Department of Safety, the Secretary of State or the Fish and Game Department, the amount of which is incorrect or if an application is required to be submitted therewith, and said application is not so submitted or is improper or incorrect, said check, draft, or money order may be returned to the sender and not deposited with the State Treasurer. Such accounts shall be stated by properly classified totals in all reports.

Sen. JACOBSON: HB 84 deals with the question of handling checks that are sent in for licenses at the Department of Safety and the Department of Fish and Game which are incorrect, that is, for example, if the license fee is \$25.00 and you send one in for only \$20.00, that's an incorrect check. Under the procedure that has been established, these departments have to turn in all their money on a weekly basis which creates a problem with regards to these checks that are incorrectly written or money orders which are incorrectly written. The Department of Safety has this privilege already and the bill was designed to grant the Fish and Game Department which has exactly the same kind of situation, the same privilege of returning these checks without having to go through the Treasury. Our amendment, as we researched the bill, discovered that the Secretary of State's Department also has the same problem. Our amendment adds the Secretary of State's Department so they may also have the same privilege.

Amendment Adopted.

SB 33

establishing a curfew for minors under sixteen. Refer to Judicial Council. Sen. Leonard for Judiciary.

Sen. LEONARD: Mr. President, the Committee discussed this bill at length and thought that it had a lot of merit but we could see no way to amend it to make it fair for everyone concerned. Basically the bill requires that children under sixteen not be on the street after 10 o'clock at night and after the first offense, the parent or guardian must be responsible and pay the fine or serve up to thirty days in jail for the second violation. We've recommended that children under sixteen not be on the street after 10 o'clock and in the meantime, we are sending this to the Judicial Council for their wisdom.

Resolution adopted.

SB 69

relative to hawkers and peddlers. Ought to pass with amendment. Sen. Downing for Judiciary.

AMENDMENT

Amend the bill by striking out section 3 and inserting in place thereof the following:

3 Exception. Amend RSA 320:3 by striking out said section and inserting in place thereof the following: 320:3 Exceptions. The provisions of this chapter shall not apply to any person: I. Selling the product (a) of his own labor, or (b) of the labor of his family, or (c) of his own farm, or (d) of the farm he tills. II. Making a door-to-door solicitation which results in a contract (excluding a rental or lease-type agreement) or cash sale in which the subject of the contract or cash sale is delivered at one time and where no security interest or negotiable instruments of any kind are called for by the contract, and where the total contract or cash sale price in all does not exceed one hundred dollars.

4 Certifications. Amend RSA 320:8 (supp) as amended by 1955, 185:3 and 1969, 481:3 by inserting in line eight after the word "city" the following (or of some town with a population of three thousand or more) so that said section as amended shall read as follows: 320:8 State Licenses. Upon compliance with the conditions hereinafter set forth, and upon payment of a fee of ten dollars for the use of the state as a state license

fee, the Secretary of State may grant special state licenses. Applications for such licenses shall be made upon blanks prepared by the Secretary of State requiring such information regarding the applicant's character and qualifications as said Secretary shall deem pertinent. No such license shall be issued unless the application is accompanied by a certificate signed by the Chief of Police of some city or of some town with a population of three thousand or more in this state stating that the applicant for a license is, to the best of his knowledge and belief, a person of good moral character, and is, or has declared his intention to become, a citizen of the United States. Any person so licensed may do business as a hawker or peddler in any city or town in this state, without further payments. In addition to the payment of a license fee the applicant shall file a surety bond or deposit in cash a sum of not less than one thousand dollars with the Secretary of State which shall be available for payment of any judgment recovered by the vendee or any compromise settlement effective between the vendor and vendee provided such judgment or settlement is on a contract involving an amount in excess of fifty dollars and the proper certificate issued to the Secretary of State would constitute an order for payment of such sum. In the event that a corporation should apply for a license under the provisions of this chapter, the sum of one thousand dollars deposited with the Secretary of State in cash or surety bond will be sufficient to cover its employees or agents who, however, will have to be individually licensed.

5 Effective Date. This act shall take effect sixty days after its passage.

Sen. DOWNING: Mr. President, I move the adoption of the Committee Report on SB 69 as amended. The amendment to this bill is published on page 27 of today's Legislative Report. This bill has a Consumer Protection purpose but if accomplished, will offer reasonable assurance to every resident of our State that every hawker or peddler knocking on their door is licensed, if licensed, is a legitimate, reliable and financially responsible business man of good character. There seems to be a minimal type of protection that every citizen has the right to expect and obviously is our duty to provide. The amendment makes suitable provisions to exempt the popular housewife, part-time, extra money type business.

This type industry represented the primary type opposi-

tion to this bill and the amendment obviously relieves their concern. In the interest of the consumer, I urge support of this bill as amended.

Sen. MORRISSETTE: I have received hundreds of phone calls and letters on this because there are many women in my district who sell within their homes. Will they be required also to have a \$2000.00 bond?

Sen. DOWNING: No, they will not. That is relieved by the amendment.

Sen. MORRISSETTE: All they will have to do is pay their \$10.00 fee?

Sen. DOWNING: They will not even be required to do that.

Sen. NIXON: I rise in support of the Committee Report, "ought to pass with amendment" with respect to SB 69. What you may not know in regards to the background of this bill is that since sometime in the 1800's, I believe, New Hampshire has, by legislation, attempted to protect its homeowners, wives who are home during the day and the elderly, from misrepresentations and sharp sales practices on the part of hawkers and peddlers. In the old days, I think the chief offenders were tinkers. The idea behind the original legislation was to try to provide some reasonable way of knowing first, who was in any particular town or city selling from door to door and second, that that person was of reputable character and reputation as certified by someone who should be in a position to know such as a town or city police chief, and that that person have a license to be there.

That law has been on the books for over a hundred years, I think. The problem is that the law was interpreted by Honorable Warren Waters, Acting Justice in the Concord District Court, as not applying in the case of magazine sales solicitation teams, on the theory that the statute, based on a case in 1879, did not apply in the situation where, although it was a door to door sale, the goods were not delivered at the time the solicitation was made, but arrived later on. That decision caused some ambiguity in the law and its application and there has been, particularly in the Concord area, a serious problem in regard to magazine sales distribution teams.

Therefore, the Judicial Council and the Attorney General's Office were interested in amending the law so that it would reach out and pertain to the advance solicitation — later delivery situations; and that is all SB 69, introduced by Sen. Jacobson at the request of the Judicial Council, purported to do in the first instance. The problem was that the original language would actually, as it was recommended to you, pertain to the ladies, teachers, housewives, etc., who sell various products in their spare time. I do not believe, myself, that the law would be interpreted to reach them because they don't actually go out and knock door to door, which the existing law pertains to. They usually have an invitation, or by prearrangement, people come to their home or they go to people's homes, so they are not actually door to door salesmen. However, there was concern that the licensing requirement, under SB 69 would reach them. Therefore, your Committee adopted an amendment which exempts, from the licensing and regulation requirements, sales which involve delivery of the goods at one time as opposed to the magazines which come in by the month, provided that the cash price or contract price does not exceed \$100.00 because, as I am sure some of you know from your own constituents, there have been problems when the amount is higher than that, such as in situations as driveway tarring, housing repairmen, etc. It was also determined that your home invitation sales don't involve transactions exceeding \$100.00 per customer. These amendments were designed to let the bill continue to reach those that the Judicial Council thought should be reached, but exempt those who would be unduly and needlessly harmed by the bill. I might say, by the way, the law does not require every salesman to buy a \$1,000.00 bond as some have suggested. In the case of the corporation which has salesmen, one bond would cover all the salesmen in the state.

Sen. GARDNER: You refer to women; I see a little discrimination in this because some men do the same thing.

Sen. NIXON: Exactly right, Senator Gardner. I might say, however, that the women have been more diligent in writing letters to senators than the men have been.

Sen. SPANOS: Sen. Nixon, may I ask how you expect the policing of the section involving the total contract price exceeding \$100.00? How are we going to determine that they are abiding by that?

Sen. NIXON: I don't know if I can give you the answer to that any better than I could give you the answer to "how do we know whether a particular deer is predominately white as opposed to brown?" I do know, however, so far as we could tell from the evidence before the Committee, that the people who were concerned about this amendment in original form were people whose sales do not exceed, to any one customer, \$100.00. These were the ladies and men who sell Tupperware, Stanley Products, Avon Products, and the like. They are now exempted from the law.

Sen. MORRISSETTE: Relevant to the hundred dollar limit, for example, if a woman gave a demonstration and sells a total of \$113.00, would she have to get a bond and a license?

Sen. NIXON: In the first place, I don't think the law, even in its original language, would apply to the situation you described, which, as I understand it, was one in which the sales person was invited to the home by an advance arrangement. It wasn't a door to door solicitation. Secondly, the licensing requirement, if it did pertain, which I doubt, would pertain only if the sale was to one person in excess of one hundred dollars. If there were ten people and if they each bought more than ten dollars worth, even if the total did add up to over one hundred dollars for one night, the licensing requirement would not pertain in any event. That was the intent of our Committee by the amendment it offers you.

Sen. SPANOS: Is it the intention of the Committee that, in the areas where the man or woman invites someone to a particular home and conducts a business, that they would not fall within the law?

Sen. NIXON: I don't know if I can say that was the intent of the Committee. I can tell you that my own interpretation of the law already on the books is that the situation which you have described is not a "door to door solicitation" and therefore the licensing requirement would not pertain. Maybe some other member of the Committee could tell you of the intent of the Committee in that respect, if there was one.

Sen. FERINANDO: Senator, has there been a need for this particular bill; have there been abuses?

Sen. NIXON: The Judicial Council, comprised of the Chief Justice of the Supreme Court, the Chief Justice of the

Superior Court, the President of the New Hampshire Bar Association, the Attorney General, a representative of the Probate Courts, representative of the District Courts and several distinguished lay persons was the source of SB 69 being introduced and they were represented at the hearing by Assistant Attorney General Irma A. Matthews, who testified that there was a problem in this area which this bill sought to remedy and that problem, specifically, was the case where a door to door salesman came around, solicited a sale, but did not have the goods under his arm or in his wagon at the time. It was for that reason that Sen. Jacobson introduced SB 69 at their request. The Attorney General of New Hampshire wrote a letter subsequent to the hearing expressing concern over the amendment that your Committee recommends to you today which would exempt the people who we intended to be exempted.

Sen. KOROMILAS: I rise in support of the amendment. I fully agree with what has been said thus far. I think one point has not been covered with respect to the amendment and I think it should show on the record that prior to this present law, which states that you can only get a license to sell from a city only; in other words, you have to go to the Chief of Police. Now, the bill has been extended to include towns over 3,000 population.

Sen. SPANOS: Would you say that it is the intention of the Committee that this law is inapplicable to those who invite people to a home in order to do business?

Sen. KOROMILAS: I can't give you a well-considered opinion, however, it seems to me that if you take the bill that has to do with the solicitation of house to house, that has to do with the cancellation of a door to door salesman's contract. I think if you take that into consideration, take this bill plus the other, I think you would find that it covers them.

Sen. FOLEY: I should like to be recorded as supporting the amendment which is aimed at protecting part-time sales people. This bill, if not amended, would have created a hardship on these people and I support the amendment.

Sen. NIXON: The existing law defines a hawker and peddler, for purpose of licensing and registration requirements, as follows: "except as hereinafter expressly provided the terms 'hawker and peddler', as used in this chapter, shall mean and

include any person, either principal or agent, who goes from town to town or from place to place in the same town, selling or bartering, or carrying for sale or barter, or exposing therefore, any goods, wares or merchandise or offers to perform personal services for household repairs or any improvement." And then it goes on with further explanation which is here not material.

My own feeling would be that that language would not reach out and pertain in a situation where a sales person is *invited* by a homeowner into her home to put on a demonstration. I am not either a special judge or an associate judge of any court so its only an opinion.

Sen. PORTER: If a person should need this surety bond, could you give me some estimate of what it would cost a person to be bonded?

Sen. NIXON: No, I could not. I really don't know.

Sen. FERDINANDO: I rise to indefinitely postpone SB 69. I do so on the basis that I feel we should encourage door to door salesmen. I was formerly a door to door bible salesman and my bibles did not sell for over one hundred dollars in those days, but they were \$35.00 bibles and in anticipation that I had three members of a family that were ready to buy a bible from me, which would make the cost in excess of one hundred dollars, (and I'm speaking in parallel with the vacuum cleaner salesman) I think that we are apt to discourage people by passing this particular law to require them to be bonded. It's difficult enough to find people to go on a door to door basis as it is and I don't think this bill would encourage anybody to go in this field of endeavor. There are enough laws that correct any abuses and I would hope members of the Committee would feel the same as I do and indefinitely postpone SB 69.

Motion lost.

Sen. S. SMITH: As I read the amendment, it talks about cash sale or the delivery at the same time or sale. I don't see anything in here relative to invitation or being requested to come to the house. I don't quite understand this aspect of it and I don't see where this would be applicable.

Sen. NIXON: I think that is what I was trying to say earlier, Sen. Smith. In my own judgment, there is a real question as

to whether the law, either in the form that was already on the books or as amended if you adopt SB 69, would pertain in a situation where a sales person is invited by prearrangement into a home for purposes of a demonstration. My own feeling was that the original law and the law as amended, would pertain as to hawker and peddler; one who goes from place to place in a town or from town to town and knocks on doors and tries to sell stuff, either carrying it with him or to be delivered at a later time, if the goods either arrive in installments (such as magazines) or exceed \$100 in price.

Sen. S. SMITH: In other words, this bill has no relationship to whether it is an invitation or not; this was what you were referring to in the original law?

Sen. NIXON: That's correct. However, to the extent that some person wiser than myself might be in a position to say, the original law *did* pertain to a solicitation for sales in a home of the type you have described, the amendment that the Committee recommends to you would exempt that situation from the reach of the bill; provided again that the goods sold were delivered at one time and the sale price did not exceed one hundred dollars.

Sen. KOROMILAS: I would like to clear a point that has been raised by Sen. Spanos. We have, on the books, another law that has to do with door to door solicitation and it's a cancellation type law which says that if the person comes to your door and tries to sell, you have four days to cancel the contract provided you meet other requirements. I think that when I answered Sen. Spanos' question, I said that if you read that particular bill, together with the hawkers and peddlers, you may come to the conclusion that this may cover a person that goes to a house because the four day cancellation does talk about a person being invited to a house for the purpose of sale. In that particular law, a person is protected and can cancel within four days even though he is invited to someone else's house. I hope that explains the problem that may have been raised in Sen. Smith's mind.

Amendment adopted.

Ordered to third reading.

PERSONAL PRIVILEGE

Sen. SPANOS: Mr. President, I voted Aye on the last motion on third reading hoping that perhaps, at least when we may look back on this for a judicial decision, that someone in the Senate would say that he voted for the measure because he feels that it excludes the invitation to homes by the housewife or the man who was selling goods along the lines of Tupperware, Stanley Products, and what have you. Perhaps the courts might find that that was an issue here and might be interpreted as the intention of the Senate.

Sen. MARCOTTE: I wish to be recorded as voting against SB 69 as amended.

Sen. FERDINANDO: I would like to be recorded as voting against SB 69.

PERSONAL PRIVILEGE

Sen. DOWNING: I feel that the remarks of Sen. Spanos may have questioned the thoroughness of the Judiciary Committee and I would like it noted that this question that Sen. Spanos had earlier was posed by members of the Committee to each other and it was decided that the decision that Sen. Nixon gave was, in fact, the proper one, that these people were definitely exempt along this line.

Sen. GARDNER: I would like to record my reason for voting in the affirmative for SB 69 with amendment. I have been assured by the Chairman of the Judiciary Committee that this amended bill will not change the status of my constituents who contacted me.

SUSPENSION OF THE RULES

Sen. S. SMITH: Mr. President, I move that the rules of the Senate be so far suspended as to allow the introduction of a committee report not previously advertised in the *Journal*. Yesterday afternoon the Senate Finance Committee held a hearing on HB 286, took executive action on it this morning and would like to report it out as "ought to pass," and we did so with the thought that it should be reported in under Suspension of Rules. What HB 286 does is to increase, by \$42,000.00, the capital budget of 1969 to allow for the construction of a wo-

men's dormitory at New Hampshire Technical Institute in Concord. The bid went out two months ago and the lowest bid was this much over the funds appropriated for construction. Under the contract process of the state, the contractor must honor the bid for thirty days after the opening. Sixty days have elapsed, the contractor is anxious to get going, Spring is here and he wants to get the building under way and it was felt that by doing it today, we would give him a few additional days. At the present time, he has no obligation to the State and the sooner we do this, the more likely he will fulfill the contract. If it has to go out for rebid, the next lowest bid was \$32,000.00 higher. I think that the passage of this is in the best interest of the state.

Sen. DOWNING: In reading HB 286, I can't relate the figures you have mentioned.

Sen. S. SMITH: Under the law, that was passed in 1969, under the capital budget, \$681,000.00 was appropriated for the whole project. This included building, parking area, utilities, furnishings and equipment. The building portion of it, \$592,000.00, is what presently is needed as under the other law, the original law, \$550,000.00 was passed under the Capital Budget Act. We want to increase this by \$42,000.00 to \$592,000.00 taking the whole project cost up from \$681,000 to \$723,000.

Sen. DOWNING: Section 2, is that the bonding increase that is affected by \$42,000.00 also?

Sen. S. SMITH: I believe so, yes.

Suspension of The Rules Adopted.

HB 286

appropriating additional funds for the women's dormitory at the New Hampshire Technical Institute in Concord. Ought to pass. Sen. S. Smith for Finance.

Sen. S. SMITH: I hope that the Senate will go along with the Committee report and approve the bill.

Sen. MORRISSETTE: What is your feeling regarding the possibility that it might be up for rebid? Is it also possible that if the bill should go through we may be able to get a lower bid than what was originally proposed?

Sen. S. SMITH: The legislation of which you are speaking is in the House and I do not know what action the House has taken on it. I think that this would probably have no effect upon this present circumstance. I would just like to reiterate that out of approximately nine bids, there was a range from the low bid, after negotiation, of \$633,000 to a top bid of \$739,000.

Sen. MORRISSETTE: I realize the spread of bids, but do you feel there is a possibility that if there was a rebid, that we come in with a different lower bid?

Sen. S. SMITH: I don't think so.

Sen. DOWNING: Would it be your understanding that, if in fact, this was approved and before the contracts were let and legislation to approve the requirements for wage scale that this would probably be a negotiable item before the final time?

Sen. S. SMITH: I don't know the answer to that.

Sen. ENGLISH: This is for women's dormitories. It is basically a self liquidating project and is done this way rather than bonding. Why?

Sen. S. SMITH: In answer to your first question, that is correct.

Sen. SPANOS: Just to support the motion offered by Sen. Smith and inform the Senate that the Finance Committee was unanimous in recommending that this measure ought to pass.

Adopted. Ordered to third reading.

FURTHER HOUSE MESSAGE

The House acceded to Senate request for a Committee of Conference on:

SB 25, modifying the requirements for membership on a Municipal Budget Committee.

The Speaker appointed as members of said Committee on the part of the House, Reps. Hanson, Blaine and Alukonis.

SPECIAL ORDER FOR 1:01 o'clock

HB 246, authorizing the use of breath tests to determine the percentage of alcohol in the bloodstream of motor vehicle

operators. Ought to pass. Sen. Downing for Public Works and Transportation.

Sen. DOWNING: Mr. President. I would like to offer the following amendment.

AMENDMENT

Amend paragraph III of RSA 262-A:69-i as inserted by section 2 of the bill by striking out the same and inserting in place thereof the following:

III. Chemical analyses of the arrested person's breath, to be considered valid under the provisions of this act, shall have been performed according to methods approved by the Director of the Division of Public Health, and by a person certified for this purpose by the Director of the Division of Public Health. The Director of the Division of Public Health is authorized to approve satisfactory techniques or methods, to ascertain the qualifications and competence of individuals to conduct such analyses, and to make certifications of such individuals, which certifications shall be subject to termination or revocation at the discretion of the Director of the Division of Public Health.

Sen. DOWNING: Mr. President, I would like to speak briefly about the bill as amended. I would point out that all of the members of the Senate have had an opportunity to see a very unusual demonstration of the breathalyzer machine yesterday. Those who had the time, saw it completely dismantled and reassembled. I would like to remind them of five points that were covered in previous discussion on the bill.

First, any malfunction of the machine would favor the suspect.

Second, reliability has been established as equal to the blood and urine test.

Third, this method does not replace the blood or urine test. Any suspect or accused will still be entitled to a blood or urine test if he should so desire.

Fourth, the addition of a breath test facility will insure immediate aid to the sick not readily available now.

Fifth, the amendment for the certification of operators, equipment, program and testing will be rigidly regulated and supervised by the Department of Health.

In the interest of public safety, I urge you to continue efforts to rid our roads of the drunken driver by supporting passage of this bill as amended.

Sen. MORRISSETTE: In view of the fact that the accused would be entitled to any of the three tests, it would not be necessary for the accused to seek the presence of a third party. Do you feel that because he has the choice of three tests, that he would not have need for a third party?

Sen. DOWNING: Based on prior testimony, I think such a condition would be very impractical. (Refer. Sen. Nixon's withdrawn Amendment on 3-25-71)

Sen. SPANOS: I rise in support of the amendment. I raised some questions at the hearing which are still unresolved in my mind. I was hoping that the amendment would go further but I guess that due to the limitations of time and what have you that this is as good as you can get it. However, I would like to make two points, and I hope that the Department of Public Health does consider two possibilities in establishing their rules and regulations and determining who shall be the individual testing.

First, I sincerely hope that the Department of Public Health will consider that those who administer not only be police officers; that the training be given to laboratory technicians and to nurses as well as to police officers.

Secondly, I hope that the Department of Public Health considers, as a possibility, that the machines not just be placed in State Police Headquarters or local police headquarters but also in hospitals where there is an element of third parties present to administer the test. My concern has always been that I am always reluctant to have the apprehending officer be the testing officer. This is why I hope that these possibilities will be considered.

Sen. POULSEN: I rise in favor of this amendment. The wording and thought was taken largely from the rules of another state which has used this satisfactorily over a period of years.

Sen. NIXON: I rise in support of the passage of HB 246 as amended. I would like to express thanks to Highway Safety Coordinator, Thomas Power for his assistance in arranging for the expert from Rhode Island to perform the extensive testing yesterday afternoon, and *despite* that testing, I support the bill.

Sen. KOROMILAS: I raised various questions at the time the bill came into the Senate. I, too, felt that Sen. Spanos had raised some very important points and that is it wouldn't hurt to have some of these machines put in hospitals and also to qualify nurses.

Sen. MARCOTTE: I also rise in support of the breathalyzer and this act as amended. However, I do hope that the police and Department of Safety and all people concerned take into consideration the drug situation. This machine is mainly for identifying the drunken driver but today, we find many cases of people using drugs and covering up with alcohol. I hope we will find some kind of method for apprehending this person also.

Sen. MORRISSETTE: I would like to speak in favor of the bill primarily on the basis that the accused will also have the choice of the other two methods of testing. If the other methods are discontinued, I hope we will make provisions for having a third party present.

Amendment Adopted.

**SPECIAL ORDER FOR 1:02 o'clock
SENATE CONCURRENCE ON HOUSE
AMENDMENT**

SB 51, providing for the Commissioners of Safety and Education to devise standards for the conduct of driver education courses and to eliminate restricted instruction permits for fifteen-year-olds.

Sen. FOLEY: I requested the Special Order and after reading the amendment, I move that the Senate concur in the House amendment.

AMENDMENT

Amend the caption of the bill by striking out in lines two and three the words "and to eliminate restricted instruction permits for fifteen year olds." so that said caption as amended shall read as follows:

AN ACT

providing for the Commissioners of Safety and Education to devise standards for the conduct of driver education courses.

Amend the bill by striking out sections 4 and 5 and inserting in place thereof the following:

4 Effective Date. This act shall take effect sixty days after its passage.

Amendment adopted.

SUSPENSION OF THE RULES

Sen. MORRISSETTE: Mr. President, I move that the rules be so far suspended to vacate the Committee on Rules and Resolutions on my resolution and that we take it up at the present time.

Sen. S. SMITH: Mr. President, I rise in opposition to the motion and do so because my understanding is that all resolutions and bills must be referred to the Committee and the Committee on Rules and Resolutions will hold a hearing and will take appropriate action on it. I have not yet seen the resolution nor have I had an opportunity to read it and I don't believe that many members of the Senate have had that opportunity.

Sen. KOROMILAS: There has been, in the past, where a person has submitted a resolution, asked for suspension with respect to printing and to a Committee Report and Notice and this honorable body has offered the person introducing the resolution the opportunity to ask his peers whether they want to allow him to introduce it under suspension or not.

Sen. S. SMITH: I'm sure this is true but I have not yet had an opportunity to evaluate this resolution and I think it is important.

Sen. LEONARD: I rise in support of this motion to suspend the rules. I understand the resolution pertains to Lt. Calley's trial. It's a current event that is being discussed throughout the country and as Sen. Koromilas pointed out, we have waived rules many times. In the past, I had the feeling, on certain resolutions, that they were held up in Committee because someone on the Committee did not want them aired. I think this is a matter for the whole body to decide and I see nothing wrong with bringing this before the members to discuss and to decide what to do with it.

Sen. MORRISSETTE: I'm hopeful that my colleagues will go along with the resolution which I feel has a lot of merit.

I could see putting it off if there wasn't enough information available, but I think we have all read about this case and I don't see where anyone would oppose, at least the discussion time, and I think we should take the time to deal with this matter.

Sen. McCARTHY: I would like to speak in opposition to suspension of the rules. I have had an opportunity to take a brief look at the resolution. While it is certainly justifiable, I don't think it's comprehensible enough. Under the circumstances, we would be over-reacting and more thought should go into it. Speaking for myself, it's going to be very difficult to cast a very deliberate vote or a very honest vote this afternoon.

Sen. NIXON: Ordinarily, I would defer to a senator's request to suspend the rules on a matter such as this. I think the Calley verdict, which is the subject of the resolution to be offered if the rules are suspended, is unique in involving more emotion than reason in the general public's eye. I would like to see any action to be taken with the Calley verdict deliberated in time, with thoroughness, with care. I don't think, on a late Thursday afternoon, we are in a position to do that. My views on the Calley verdict are expressed very well in what I thought was an excellent editorial in the *Manchester Union Leader* of March 31:

"The 'sympathy' being expressed for Lt. William L. Calley, Jr., found guilty of the premeditated murder of at least 22 Vietnamese civilians at My Lai, should be carefully analyzed.

There undoubtedly are many Americans who will reject *out of hand* the verdict of the jury which deliberated for 13 days before arriving at its decision last Monday afternoon.

To many, the thought of an atrocity perpetrated by American GI's is so repelling that they cannot accept the verdict.

To an extent, we can understand that point of view, but we believe that this group of people should not overlook the fact that atrocities were committed at My Lai. Lieutenant Calley, whose case will be appealed, and Captain Medina should have their full day in court."

I agree with the sentiments expressed in that excellent editorial and I think that this resolution should have its full day in court also under the ordinary hearing and public exposure procedures so that we will have time to inquire into its wording, into the effect it might have on the people of New

Hampshire, if adopted or if defeated, at length. I think if we try to take it up this afternoon, we will be making a mistake.

PARLIAMENTARY INQUIRY

Sen. KOROMILAS: Could we have the text read to us because I have no way of knowing what the resolution says and I don't think, except for Sen. McCarthy, that anyone else has had the privilege of reading it.

(The Clerk read the resolution).

Sen. MORRISSETTE: Do you feel that, in view of the fact that the key word in this resolution is the word "consider"; we're not being asked to judge a verdict, reduce a sentence; we're simply asking the word, "consider" and discuss the motion and if we feel it shouldn't be voted on, we could seek a request to refer it to the Committee. To fail, to refuse to discuss it, is beyond by understanding. What possible harm is there in discussing this so we can think on its merits?

Sen. NIXON: No possible harm, senator. I respect your sincerity in introducing such a resolution and I will take a back seat to no man in terms of patriotism. I had the ill-fortune to lose the sight of an eye in the service of our country. But I do think this is a subject that deserves careful deliberation and consideration in terms of all of its possible implications. Notwithstanding your use of the word careful "consideration," I think that an affirmative vote on it would be placing this Senate on record as directly in opposition to and negating and disagreeing with the verdict of the jury in the Calley case. The jury was composed of officers, all of whom were decorated heroes and veterans of combat in the service of the United States Army. A vote opposing or negating your resolution might well be interpreted as agreeing that Lt. Calley should be put to death. This is the type of thing I don't think we should act upon precipitously. I think we should give your resolution a full and fair hearing with the benefit of public testimony so that all of its possible implications can be carefully considered by this body, which is known for careful consideration of such issues, before final action is taken.

Sen. MARCOTTE: I rise in support of the suspension of the rules. I can't see anything wrong with allowing the senator the opportunity.

Sen. S. SMITH: It's been referred to several times that I have asked for the suspension of the rules today. I did, on a bill which was given full hearing in the House, acted upon in the House, a full hearing by the Committee on Finance, and acted upon by the Senate Committee on Finance. It's been printed and has been available. I agree with what Sen. Nixon said, I wish I could have spoken as eloquently; in regards to the seriousness and concern which we should have in regards to such a resolution.

Sen. MORRISSETTE: Would you not agree, Sen. Smith, that we have suspended the rules in regards to extending our borrowing capacity? Don't you feel it might be fair to suspend the rules in this case?

Sen. S. SMITH: I think that the matter here is a matter of judgment for each and every member of the Senate to search and consider his thinking on this. I, however, am very strongly of the opinion that a matter of such a personal nature should have further Committee consideration.

Sen. McCARTHY: Do you think that introducing and passing this motion today might be a premature move?

Sen. MORRISSETTE: We have hundreds of thousands of boys in Viet Nam that are disturbed today; not next Tuesday or a month from now or never if it doesn't reach the floor. If they know we are interested in at least discussing it, it will help their morale.

Sen. McCARTHY: Do you know that the President of the United States, by virtue of his office, is Commander-in-Chief of all armed forces and does have this right to consider this. It is one of his responsibilities.

Sen. MORRISSETTE: It does make a difference to 120 million people if we give it consideration.

PARLIAMENTARY INQUIRY

Sen. R. SMITH: Did I hear you not state that this bill had been introduced and referred to Committee?

The CHAIR would state that the Senate Resolution under present discussion was introduced into the Senate, it was referred to the Committee on Rules and Resolutions. It now stands that we have a motion before us, in essence, to vacate the

order whereby the resolution was ordered to the Committee on Rules and Resolutions and that final action be taken at the present time.

Sen. DOWNING: I rise in support of the motion to allow suspension of the rules.

Sen. KOROMILAS: I have listened to the resolution and am not satisfied with the text of the resolution although I fully appreciate Sen. Morrisette's views on the situation. I feel the way the resolution is worded does not merit my support. Under the circumstances, due to the way the resolution is written, I oppose suspension of the rules.

Sen. MORRISSETTE: I would like to withdraw my motion hoping that the Committee will act as soon as possible.

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until Tuesday, next, at 1 o'clock in honor of the thirty-ninth birthday of Sen. Jacobson who was born on April 4th and the thirty-ninth birthday of Sen. Morrisette who was born on April 5th.

Adopted.

LATE SESSION

Third reading and final passage

HB 84, relative to the deposit of funds with the State Treasurer by the Secretary of State or the Fish and Game Department.

SB 69, relative to hawkers and peddlers.

HB 286, appropriating additional funds for the women's dormitory at the New Hampshire Technical Institute in Concord.

HB 246, authorizing the use of breath tests to determine the percentage of alcohol in the bloodstream of motor vehicle operators.

Adopted.

Sen. Brown moved the Senate adjourn at 3 o'clock.

Adopted.

Tuesday
6 Apr 71

The Senate met at 1 o'clock.

A quorum was present.

Rev. SHAFER: Mr. President — May I present, as today's Guest Chaplain, the Rev. Evelyn M. Duke, former minister of the Dunbarton (N.H.) Congregational Church and currently Chaplain at Concord's (N.H.) Havenwood Retirement Community. It was my privilege to welcome her as the Guest Chaplain to our New Hampshire General Court on January 29th, 1963. According to our Legislative Historian, Leon W. Anderson, she is the only other woman, besides the Rev. Ethel Lee Matthews of Bristol (N.H.), to serve as a Guest Chaplain in this "House of Democracy."

Dear Lord and Father of Mankind, Renew our faith in thee this day. We thank you that after rain we know the sun will shine. We know that Winter always brings the Spring. We know that life goes on and love remains. And life and love can never die. Especially today bless those who serve our government, who earnestly seek a solution to the problems that confront our Commonwealth. Grant to each one wisdom and wise judgment for the living of these days. We offer this prayer to Thee in Jesus name. Amen.

Pledge of Allegiance was led by Sen. Foley.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 150, requiring that the Mayor of the City of Nashua be elected by a majority vote and providing for a run-off election relative to the same. (Leonard of Dist. 13 — To Executive Departments, Municipal and County Governments.)

SB 151, relative to reimbursement for damages caused by vandalism. (Ferdinando of Dist. 14 — To Judiciary.)

SJR 14, relative to retirement credit for George R. Merrifield. (Spanos of Dist. 8 — To Finance.)

HOUSE MESSAGES
INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 275, authorizing towns to make by-laws relating to hazardous pits. (Executive Departments, Municipal and County Governments)

HB 288, relative to the development of services to aid the health and welfare of the citizens of New Hampshire. (Public Health, Welfare and State Institutions)

HB 314, providing for investigation of a lake management structure on Silver Lake. (Resources and Environmental Control)

HB 328, repealing the statute providing that the Labor Commissioner shall establish the minimum wages paid by the state and its political subdivisions in the construction of public works and enacting an anti-kickback in public works statute. (Public Works and Transportation)

HB 368, regulating the sale of hypodermic syringes. (Public Health, Welfare and State Institutions)

HB 446, relative to the membership of school boards in certain school districts. (Education)

HB 530, amending the liquidity provisions applicable to building and loan associations, cooperative banks or savings and loan associations. (Banks, Insurance and Claims)

ENROLLED BILL REPORT

HB 242, providing that the reregistration of voters be postponed until 1973 and establishing a committee to study and report on the form of checklists.

Sen. Provost
For the Committee

ANNOUNCEMENTS

CHAIR: At this point I would like to deviate from our normal Calendar and recognize the Legislative Historian, Leon Anderson.

LEON ANDERSON: We appreciate this opportunity to join with our New Hampshire Senate in paying brief homage

to its feminine members, in observance of the Golden Anniversary of Women's Suffrage.

While women have been serving in this General Court ever since 1921, it was not until 1931 that a first one sat in this Senate.

She was Mrs. Edgar Maude Ferguson of Bristol, a tall and stately brunette of 47, who had completed two House terms.

Mrs. Ferguson beat two males to win the Republican Senatorial nomination in the 1930 election. One of them was Harry S. Townsend of Lebanon, father of present Senator Howard C. Townsend.

The 1931 Senate greeted Mrs. Ferguson with flattering attention. She was given the distinction of presiding as Chairman of its Republican caucus, and helped elect Arthur E. Jones of District 10, a Keene business man, as Senate President. So it seems fitting that as respects are paid to this first woman senator 40 years later, District 10 again has the honor of filling the Senate presidency, in the person of John R. Bradshaw, also a Keene business leader.

Roses covered Mrs. Ferguson's desk on her first day in this Senate on January 6, 1931. There was a handsome bouquet from her Bristol friends. There was also a single rose, in silent homage to Dr. George H. Calley of Bristol, her late beloved step-father, who occupied the same seat in 1909!

There is again a single rose on Mrs. Ferguson's desk today, placed there by Senator Howard Townsend in silent tribute to her memory.

Twenty women have followed Mrs. Ferguson in Senate service over the past 40 years.

There was Mrs. Lula J. A. Morris of Lancaster in 1937; and in 1945 Mrs. Marye Walsh Caron of Manchester became the first Democrat of her sex to sit in the Senate.

Miss Doris M. Spollett of Hampstead joined the Senate in 1947 and Mrs. Sara E. Otis of Concord became its fourth woman member in 1949.

Six women sat in the 1951 Senate, for an all-time record. Mrs. Caron and Mrs. Otis were back and the newcomers were

Mrs. Lena A. Read of Plainfield, Miss Susanne Loizeaux of Plymouth, Mrs. Margery W. Graves of Brentwood and Mrs. Winifred G. Wild of Jackson.

Mrs. Katherine Jackson of Dublin and Mrs. Marjorie W. Greene of Concord became Senators in 1953 and Mrs. Irene Weed Landers of Keene served in 1955.

Mrs. Ida M. Horner of Thornton, Mrs. Margaret B. DeLude of Unity and Mrs. Nelle L. Holmes of Amherst joined the Senate in 1957, as did Mrs. Eda C. Martin of Littleton in 1959.

Mrs. Edith B. Gardner of Gilford arrived in the Senate in 1961, along with Mrs. Marion L. Phillips of Claremont, and Mrs. Gardner remained ever since.

The 1965 session saw a most unusual influx of new women Senators. There were three of them and they were the first without previous legislative experience in the lower branch of our Legislature.

This 1965 trio comprised Mrs. Dorothy Green of Manchester, who succeeded her late husband, Senate President Samuel Green; Mrs. Molly O'Gara of Dover, who filled a resigned vacancy, and Mrs. Eileen Foley of Portsmouth, the second Democratic woman Senator, who has served ever since.

Never since 1947 have there been less than two women sitting in the Senate.

In this and the past two sessions, Mrs. Gardner and Mrs. Foley have been the only women members.

(Sens. Foley and Gardner escorted to the rostrum)

The Chair offered the following Resolution:

Whereas, this 1971 New Hampshire General Court is celebrating the Golden Anniversary of its women members, with appreciation for their contributions to the public welfare, and

Whereas, one of the esteemed members of this State Senate, Mrs. Eileen Foley of Portsmouth, is the first daughter of a woman legislator ever to serve in this General Court (her mother, Mrs. Mary C. Dondero, having served 10 House terms), and

Whereas, Mrs. Foley is also serving as Mayor of Portsmouth, (even as her mother once did), and has long been active in civic affairs in her home city (like her mother), and

Whereas, Mrs. Foley is the first woman war veteran ever to serve in this Senate, and now is in her fourth term in this body, therefore be it

Resolved, that this 1971 State Senate congratulates Senator Foley on her exemplary public service and wishes her many more years of the same.

And to our senior woman legislator —

Whereas, this New Hampshire General Court of 1971 is celebrating the Golden Anniversary of its women legislators, with appreciation for their contributions to the public welfare, and

Whereas, one of the esteemed members of this State Senate, Mrs. Edith B. Gardner of Gilford, now serving a sixth consecutive Senate term, following five terms in the lower House, has thus achieved a most remarkable record of legislative service, and

Whereas, Mrs. Gardner, who recently concluded two terms as President of the National Order of Women Legislators, has also devoted many years to active support of other interests of civic and general public benefit, be it

Resolved, that this 1971 State Senate congratulates Senator Gardner for her dedication and concern for the well-being of others, much of it unheralded and unsung, and be it further

Resolved, that these Senate sentiments be inscribed into this body's permanent records as inspiration for posterity to emulate.

COMMITTEE REPORTS

HB 80

to reduce the percentage of alcohol in the blood constituting prima facie evidence of intoxication. Ought to pass with amendment. Sen. Jacobson for Judiciary.

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

to reduce the percentage of alcohol in the blood constituting prima facie evidence of intoxication and relative to samples taken for the purposes of the implied consent law.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Quantity of Sample. Amend RSA 262-A:69-b as inserted by 1965, 238:1 by inserting at the end thereof the following new sentence: (For the purposes of this section, the sample of blood or urine taken pursuant to section 69-a shall be of sufficient quantity to allow two tests and the testing laboratory shall retain for a period of thirty days subsequent to the test conducted pursuant to section 69-a, a quantity of said sample sufficient for another test, which quantity shall be made available to the respondent or his counsel immediately upon request.) so that said section amended shall read as follows: 262-A:69-b Additional Tests. Any person to whom section 69-a is applicable shall have the right at his own expense to have a similar test or tests made by any person of his own choosing and shall be so informed by the law enforcement officer at the same time as the person is requested to permit a chemical test under the provisions of section 69-a. The failure or inability of an arrested person to obtain an additional test shall not preclude the admission of the test or tests taken at the direction of a law enforcement officer. Nothing herein shall require the release from custody of the arrested person for the purpose of having such additional test made. For the purposes of this section, the sample of blood or urine taken pursuant to section 69-a shall be of sufficient quantity to allow two tests and the testing laboratory shall retain for a period of thirty days subsequent to the test conducted pursuant to section 69-a, a quantity of said sample sufficient for another test, which quantity shall be made available to the respondent or his counsel immediately upon request.

3 Effective Date. This act shall take effect sixty days after its passage.

Sen. JACOBSON: Mr. President, HB 80 has, as its intention, the possible reduction of traffic fatalities and traffic accidents in general by reducing the percentage of alcohol in the blood from .15 to .10. I am not going to quote a whole host of

statistics except to say that it is a well-established fact in our own state, as well as nationally, that alcohol mixed with driving creates a substantial hazard for the citizens of our state and in any given year, takes a considerable number of innocent victims. Therefore, in the interest of the promotion of better traffic safety, this bill was introduced, passed the House and is now before the Senate for consideration.

The amendment provides a protection for the person who may be arrested as *prima facie* evidence under the proposed statute by providing that enough blood shall be drawn so as to provide a second sample if the defendant, on a charge of DWI, would so desire. That is the purpose of the amendment and that amendment is the original SB 64 sponsored by Sen. Leonard. We have incorporated his bill and made this one bill — HB 80.

Sen. LEONARD: Mr. President, I would like to add to Sen. Jacobson's comments. When we discussed this bill; it is a big change in the present law which provides that any reading of .15 or above is a *prima facie* presumption that the operator was under the influence of liquor. This changes it to .10. The Committee requested statistics from the Department of Public Health and Welfare and I would like to repeat them.

Last year there were 2,053 blood alcohol tests performed in the state. I would estimate that this is over 90 percent of all the people that were arrested for drunken driving. From .005 to .049, which is very low, indicating that a person is not under any influence, was 2.2 percent of the overall tests taken. From .05 to .099, it was 8.8 percent. From .10 to .149, which is the area that we have picked up in this law, it was 10 percent of all tests taken. From .15 (which is the old law) to .199, it was 29.5 percent and above .20, it was 49.5 percent. These statistics indicate that the problem drinker is over .20; between .15 and .20 we are talking about 29 percent of the people tested so we have something like 75 to 80 percent of the drivers who were arrested above .15, which is the minimum. When we go down and include .15 up to .115, we are taking in 10 percent of all the drivers. I think this a big change and will affect many people who have no concept that they are drunk. We are starting to infringe on the rights of people in our state who buy liquor to support our Treasury. Many people may be unjustly punished under this new law especially when you consider that those in the State Laboratory that perform the tests are overworked; they

have double the work that they are capable of doing and the difference between the figures is so small that an error could easily be made. We should look closely at this and we may see reason to change this later on.

Sen. FERDINANDO: Sen. Leonard, what quantity would a 200 pound person have to drink in order to qualify for being drunk.

Sen. LEONARD: I can just hazard a guess. Most of these statistics are based on 160 pound individuals. It also depends on the proof of the alcohol. On 80 proof, you could probably have one more drink than you could if it was 100 proof, but a half-educated guess, at 200 pounds, you could probably have 3½ to 4 drinks if you did it over a short period to reach .10. If you did it over a period of five hours, you would dissipate the blood-alcohol content.

Sen. FERDINANDO: Are you saying a 160 pounder could have 3 Martinis?

Sen. LEONARD: Three martinis could be close for a 160 pounder if he didn't have any food in his stomach and it was a short period.

Amendment Adopted. Ordered to third reading.

SB 64

relative to the quantity and retention of the sample taken for the purposes of the implied consent law. Inexpedient to legislate. Sen. Leonard for Judiciary.

Sen. LEONARD: Mr. President, SB 64 was the bill providing for enough samples to perform two tests for blood sample. As Sen. Jacobson pointed out, this was incorporated in SB 80 so this was voted "inexpedient to legislate" because it is covered by the amendment to SB 80.

Resolution adopted.

HB 309

relative to unemployment compensation. Ought to pass with amendment. Sen. Tufts for Ways and Means and Administrative Affairs.

Amend section 12 of the bill by striking out the same and inserting in place thereof the following:

12 Definition of State. Amend RSA 282:1, L as amended by

1961, 88:3, by inserting at the end thereof the following: (and Canada.) so that said subsection as amended shall read as follows: L. "State" includes, in addition to the states of the United States of America, the District of Columbia and Canada.

Amend the bill by striking out sections 19, 21 and 33.

Amend the second paragraph of RSA 282:6, A as inserted by section 26 of the bill by striking out the same and inserting in place thereof the following:

Notwithstanding this subsection, any organization or group of organizations, described in section 501 (c) (3) and exempt under section 501 (a) of the Internal Revenue Code, which becomes an employer under this act, may elect either to reimburse in the manner provided for the state in section 6-A-1 of this chapter, or to pay contributions as hereinabove provided; but such election shall be irrevocable for two calendar years.

Amend section 27 of the bill by striking out the same and inserting in place thereof the following:

27 Payment of Unemployment Compensation to State Employees. Amend RSA 282:6, A-1 as inserted by 1957, 313:4 by striking out said subsection and inserting in place thereof the following: A-1. PAYMENT OF CONTRIBUTIONS BY STATE. All other provisions of this chapter to the contrary notwithstanding, the liability of this state for benefits paid shall be as follows: In lieu of contributions required of other employers subject to this chapter the state shall pay into the unemployment compensation fund an amount equivalent to the amount of benefits paid to claimants who during the applicable base period were paid wages by this state. If a claimant during such base period was employed by this state and by other employers subject to the provisions of this chapter, the amount to be paid into the unemployment compensation fund by this state with respect to such claimant shall be the amount of benefits received by the claimant which are in addition to such amount as the claimant was entitled to receive on the basis of the wages paid to such claimant by such other employers. The amount of payments required under this section to be made into the fund shall be ascertained by the Commissioner of the Department of Employment Security as soon as practicable after the end of such calendar month and shall, except as provided

hereafter, be paid by the comptroller from funds appropriated therefor, provided that if said appropriation is not sufficient to make all such payments or no appropriation is made therefor they shall, upon warrant by the Governor, be paid from the General Funds of the state, out of any money not otherwise appropriated. If a claimant to whom benefits were paid was paid wages by the state during the base period from a special administrative fund provided for by law, into which monies, in addition to, or other than from the State Treasury, are placed, the payment into the Unemployment Compensation Fund shall be made from such special administrative fund in the regular manner provided for disbursing such money. The payment by the state into the Unemployment Compensation Fund shall be made at such times and in such manner as the Commissioner of the Department of Employment Security, with the approval of the State Comptroller, may determine and prescribe. As to a hospital operated by the state, or a state institution of higher education as otherwise defined in this chapter, an election may be made for the period January 1, 1972 through December 31, 1974 either to reimburse as hereinabove provided or to pay contributions as provided in section 6 of this chapter; as of January 1, 1975 the method of payment shall be by reimbursement as hereinabove provided.

Amend the bill by changing the numbers of the sections as follows:

20 to 19
22 to 20
23 to 21
24 to 22
25 to 23
26 to 24
27 to 25
28 to 26
29 to 27
30 to 28
31 to 29
32 to 30
34 to 31
35 to 32
36 to 33
37 to 34
38 to 35

Amend the bill by striking out the newly numbered section 35 and inserting in place thereof the following sections:

35 Appropriation. There is hereby appropriated to the comptroller to make payments to the unemployment compensation fund pursuant to the provisions of RSA 282:6, A-1 the sum of forty thousand dollars for fiscal 1971-72, which shall not lapse until June 30, 1973 and forty thousand dollars for fiscal 1972-73. The Governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated.

36 Effective Date. The sections of this act shall take effect as follows:

I. On February 6, 1971 sections 18, 26 and 32;

II. On February 20, 1971 section 33;

III. On April 1, 1971 sections 1, 3, 4, 13, 14, 17, 19, 20, 21, 22, 23, 27, 28, 29 and 31;

IV. On July 1, 1971 section 35;

V. On January 1, 1972 sections 2, 5, 6, 7, 8, 9, 10, 11, 12, 15, 16, 24, 25, 30 and 34.

Sen. TUFTS: This bill was born in the Advisory Committee where labor and management both sat down together and worked out the items which they would recommend to the New Hampshire General Court. After this bill was entered into the machinery, agreement having been reached by these parties, the House passed the bill and made certain adjustments which they felt were necessary. The bill has come into the Senate and the Senate Ways and Means Committee has also refined it to some extent. We hope you will see fit to take the Committee recommendation.

PARLIAMENTARY INQUIRY

Sen. SPANOS: Mr. President, is the contemplated amendments of Sen. Porter before the body as yet, or are we considering the amendments that have been printed in the *Journal*?

The Chair would defer that to the Chairman of Ways and Means and Administrative Affairs.

Sen. TUFTS: The Committee amendments are the amend-

ments mentioned in the Committee Report. There will be an amendment proposed on the floor of the Senate.

Amendment Adopted.

Sen. PORTER: Mr. President, I would like to propose a further amendment to HB 309 at this time.

(The Clerk read the amendment).

Sen. PORTER: Mr. President, in the course of the bill's action through the House and the Senate, (the waiting period which is presently enforced is that an unemployed person has to wait a week before he can apply for benefits) this section was repealed by a House amendment. The Senate received the bill with no waiting period. The Senate Ways and Means Committee eliminated that section of the bill which would put it back so it would be as it was today; that is with a one week waiting period. It was felt by several that this agreement between labor and management included the waiting period and the suggestion has been offered in the form of an amendment that during the extended benefit period when the unemployment is at a high point and when jobs are scarce and difficult, that the waiting period shall be eliminated. That is the content of the amendment. If the amendment is adopted, no waiting period will be required during the high unemployment, extended benefit period.

Sen. SPANOS: Mr. President, I rise in opposition to the pending motion to amend. Before I go into the remarks for opposition, may I take this opportunity to thank the President, Sen. Porter and Sen. Downing for explaining some of the complexities of the bill. From what I can garner from the evidence that was presented to us, HB 309 doesn't meet all my objectives and I would like to see a dependency provision included in the bill and possibly a provision for payment of unemployment benefits during the period of labor disputes. I know that we must be practical and I support the bill, especially the increase in benefits on all levels, running from \$60 to \$75, but I cannot support the proposed amendment.

I think that there are several reasons why I oppose the amendment offered by Sen. Porter. Number one, I think to use the period of high unemployment as the basis of when the waiting period is to be eliminated will create an administrative nightmare trying to determine when you trigger out or when

you trigger in. One day the law will be "no waiting period" and the next day, you will have a "waiting period". I think that raises a problem in itself.

Basically, my main opposition is that I favor the elimination of the waiting period completely because there is no fundamental, practical reason to maintain the waiting period. No expert in this field can tell us why the waiting period is in the law. Some have given me the indication that perhaps its historical significance is in the fact that there were not any funds available in the early days of the law and by taking away one week from the unemployed person, the unemployment funds would be built up. Others say that it gave to the Unemployment Department an extra week in which to administer the program. Today, I am assured that with our techniques and computer systems, we do have the facilities to process the unemployment claims a lot sooner.

The good thing about the elimination of the waiting period is that it is fair to the person unemployed. First of all, it will reduce the time period for an unemployed person waiting for his benefit from three weeks, (which it takes today), to about two weeks. This makes for quick, expeditious processing of a man's claim. This man happens to be an unemployed person with a family to support who is piling up bills all this time and he could use the money one week earlier.

Secondly, what appeals to me about the repeal of the weekly time period is that the unemployed person doesn't lose the one week. Under the present law, when you have the weekly waiting period, you never get that one week back in unemployment compensation; it's forever lost. This way, without a waiting period, the man is going to be paid from the first day that he is unemployed and that should be the case.

I think the key thing here is that this measure, which is coming into us from the House, comes in as an agreed bill by the Labor and Management Council. In the time I have spent here in this body, hardly any major legislation involving unemployment benefits have been passed without their approval and the reason for it is because you have both parties working for it with a give and take process. I will wager that the one thing that was compromised in that body was the issue of dependency payments; that management gave in on the waiting

period and labor gave in on dependency. To alter this agreement, I think would be to jeopardize this bill.

I hope also that this is not some bargaining venture on the part of our Committee to deal with the House in conference. I hope that we are not saying that we will hold back on this so that some of the other things that the House may want, they will receive. That is not responsible legislating.

Finally, I would like to say that we have got to look at this measure and the whole problem of unemployment, not so much from the point of view of those people who abuse unemployment laws, but the viewpoint of the vast majority of those decent people who do become unemployed and who do need our help. With that philosophy in mind, I don't see how any of us can say "no" to the elimination of the waiting period.

Sen. LAMONTAGNE: Mr. President, I rise in support of the amendment. I am very happy and pleased that this amendment is coming before you. Being a member of that Committee, I was very much disappointed when this paragraph was taken out. This section has been agreed by both labor and management but again, I think you will find that some of these companies abuse the waiting company. For example, in Berlin, one company turned around and told its employees that they have no work for them and then on the sixth day, they would get a notice that they had to go back to work either Monday or Tuesday or Wednesday. I felt that the company had been abusive.

Sen. MORRISSETTE: I would like to speak in favor of the motion. I was on this Committee. The bill is pretty much a mandate from the Federal Government. There were a few areas where we did have something to say about it. We did have a speaker at the hearing from McCullen Company and he brought out the necessity of this waiting period. In some cases, you may have employees drawing more on unemployment than their regular wages. The concept of the waiting period is to encourage the employee to look for a job. The concept of unemployment is to help the employee between jobs or in the case of a lay-off. If you do not have a waiting period, in many cases they will not look for a job. I am very pleased with the amendment that has just been brought up. There was a problem that was bothering me; the case where you have a recession period. This amendment will take care of a tough period as we are hav-

ing right now. I understand that there are only a few states in the country that have removed the waiting period.

This is a very attractive package; one of the best in the country. The salaries are fairly low in this state but with this, we are at the top. I do not agree that this is an agreed bill. I do admit that labor and management have gotten together, but unfortunately management, when it comes to this type of negotiation, leaves out the small guy and the independent worker and small employers are affected by this bill. I hope we will go on and accept this complete package.

Sen. LEONARD: Mr. President, I agree with the remarks made concerning the bill as it is before the Senate, but I disagree with the remarks made about the proposed amendment. Sen. Lamontagne's remarks are agreeable to me, but I think we should carry it one step further. He recommends no waiting period to stop unfair labor practices of letting people off for six days. I think we ought to continue that throughout the year and have no waiting period throughout the year. The only thing I can see here is that someone is trying to save some money by having a waiting period at certain times and no waiting period at other times. My inquiries indicate we are not hard up for money; the fund is ample to take care of this. When an individual is without work, his whole world is without work. He doesn't care if it is good times or bad times; he cannot buy his food or take care of his family. I see no financial reason to abolish the waiting period at certain times; I think we should have it as the House passed it and pay this little guy whenever he is out of work.

RECESS

PERSONAL PRIVILEGE

Sen. LAMONTAGNE: Mr. President, when this proposed amendment came out, I had the intention that this was putting back the amendment that I fought in our Committee, that is Section 21 of the way it passed in the House. My intention is to see Section 21 back as it was agreed by both labor and management. This present amendment now before us was not approved by both parties. I favor the original amendment.

Sen. LEONARD: When I spoke earlier, I was under the assumption that the House bill took out the waiting period and that the bill, as amended by the Committee, also had no wait-

ing period. The amendment as it appears in the *Journal* does not indicate any waiting period. If my memory serves me correctly, there was nothing mentioned prior to the vote on the bill as amended by the Committee that the waiting period had been reestablished by the house-keeping amendments; it was not explained. I oppose the present amendment for the same reasons that Sen. Lamontagne does. I would like to see no waiting period for 365 days.

Sen. DOWNING: Mr. President, I move we make HB 309 a Special Order of Business for 1:02 tomorrow.

Adopted.

SB 81

authorizing tests on the bodies of certain motor vehicle accident fatalities to determine the content of alcohol in their blood. Refer to Judicial Council. Sen. Nixon for Judiciary.

Sen. NIXON: Mr. President, SB 81 was sponsored by Sen. Snell on behalf of the Traffic Safety Commission in conjunction with its on-going campaign to reduce alcohol-related accidents and injury and deaths in New Hampshire. The bill would require, in the case of any motor vehicle accident resulting in death, the drawing of blood from the body within four hours of the incident by a licensed physician or qualified laboratory technician. The testing of the blood to determine the blood alcohol content and the report of that test would be kept on file by the applicable County Medical Referee and be made available by him at the request of "any interested party."

The reason for the bill as it was explained to the Committee was to assist in gathering and compiling statistics as to the relationship between alcohol in the blood and accidents involving death in New Hampshire. There are statistics already available, usually estimates, that the range is somewhere between 50 to 75 percent where death on the highway can be determined as alcohol related. I think the Committee's problem with this bill was that, in the judgment of the Committee, it did not provide adequate protection in terms of the families of the deceased and the reputation or stigma that might be placed on them. The Committee, I think it fair to say, did not see any necessary value in statistics of this nature in terms of trying to influence people against drinking too much, while at the same time, as we do here in New Hampshire, try to influence them to drink enough

so that the state will have sufficient revenue from that source. However, the Committee did feel that the bill had some merit and warranted further study. For that reason, you have the recommendation that it be referred to the Judicial Council.

(Referred to Judicial Council.)

SB 59

to require the Parks Department to reserve five percent of state campsites to state residents. Inexpedient to legislate. Sen. Nixon for Resources and Environmental Control.

Sen. NIXON: Mr. President, SB 59 was introduced by Sen. Ferdinando at the request of a constituent by the name of Mr. LaTulip. It's laudable purpose was to insure, to some degree and in some way, that New Hampshire residents would have a place to camp at New Hampshire State campgrounds by requiring that the Director of the Division of Parks reserve 5 percent of the campsites at each campsite in New Hampshire for the use of New Hampshire residents exclusively. The testimony was heard on the bill pro and con and I think that the Committee's feeling was that the chief problem is that it might, and probably does, run afoul of federal statutes and regulations against discrimination in favor of residents of one state as opposed to others. Oregon was involved in a somewhat similar situation last year when it considered a bill restricting its state campsites to residents of Oregon and the U.S. Department of Interior, Bureau of Outdoor Recreation was involved in that situation and reported that such a policy would violate federal regulations in the case of parks where federal funds might be applicable or would be available for development and maintenance. Such a provision pertains in the case of Pawtuckaway Park, Franconia Park and several other state parks here in New Hampshire.

Because of that danger and because of the testimony as to the difficulty in enforcing a five percent resident restriction and also because we are a state that goes out of its way to attract non-residents to enjoy our parks and our scenic areas, it was felt that this bill did not have sufficient merit to overcome the opposing arguments and positions. For that reason, it is reported "inexpedient to legislate", although the Committee felt that there ought to be something done, if it could be done legally, to see that all New Hampshire citizens have the right to enjoy their parks with some degree of preference.

Sen. DOWNING: Sen. Nixon, you say the Committee has sympathy with this bill and thought that it would be ideal if, in fact, it could be worked out legally. I am curious why they are recommending "inexpedient" rather than "further study" where it possibly could come out with a favorable report.

Sen. NIXON: The bill did receive considerable study. Sen. Porter, the Chairman of the Committee, researched it carefully. I have correspondence here from the Department of the Interior and federal authorities indicating that such a provision just would not be constitutionally justified and, under regulations, would probably endanger or jeopardize New Hampshire's entitlement to federal funds.

Sen. DOWNING: You did state that the Committee felt that something should be done along the lines of insuring some preferential treatment for citizens of New Hampshire?

Sen. NIXON: I don't know if I accurately put it. I think the Committee and I would like to see that every New Hampshire resident would always be able to find a place at any New Hampshire State Park if they so desire. The problem only really exists in July and August which are maximum tourist seasons. On the other hand, we did not find, nor was the sponsor of the bill able to come up with any suggestion which would accomplish this without involving ourselves in legal or other problems.

Sen. KOROMILAS: Sen. Nixon, was there any testimony taken with respect to making more campsites available so we can take care of everybody?

Sen. NIXON: I don't recall any such testimony and I am reviewing, as I say this, the minutes of the Committee meeting, but I do not recall any such testimony. I feel that perhaps it's a matter of funding.

Resolution adopted.

HB 118

providing for changing the classification of Little Lake Sunapee. Ought to pass. Sen. Porter for Resources and Environmental Control.

Sen. PORTER: HB 118 was amended by the House to provide for the changing of the classification of Little Lake Sunapee. Rep. Andrews was the sponsor of the bill, on behalf of a group of constituents and it deals with the reclassification

of Little Lake Sunapee to Class A. The Committee received correspondence from selectmen and various groups related to the situation and it was pointed out that Little Lake Sunapee is an auxiliary water supply for the town. This was attested to in writing by the Town Water Commissioner.

The original bill asked for an automatic reclassification to Class A. The amendment asks that the Water Supply Pollution Control Commission shall have demonstrated to it that the waters do, in fact, meet Class A standards. The Water Commissioner, Mr. Healy, is opposed to the bill because of the fact that sufficient measurements have not been performed as yet to adequately prove that it is Class A. The enactment of this bill will allow them the vehicle to make the measurement on the Lake and on the tributary and then to reclassify the water as Class A. The townspeople felt that it's a matter of keeping and maintaining the water at its highest quality.

Sen. JACOBSON: Mr. President, I just want to say that this bill was introduced on behalf of the communities which surround the Lake Sunapee area. I notice also that you received a letter signed by a man named Charles Fosburg. I have not been in contact with him nor do I know the gentleman. I checked with the Town Clerk and he has lived in the area three or four years and apparently works elsewhere. In the letter, it brings up the issue of Kezar Lake. Kezar Lake is a genuine problem for the Town of Sutton and for the area in general with respect to the flowage of water out of the sewage plant at New London. Every effort is being made in the Town of New London, who just appropriated \$98,000 to work in specifications and plants, in order to correct this problem.

My point is that the problem at Kezar Lake is not related to the question at hand. The question is the maintenance of Little Lake Sunapee and the subsequent bill, Pleasant Lake, at a very high level. Unlike other communities which my colleagues represent, we have no industry whatsoever in this area. Our industry is recreation, and in the case of Pleasant Lake and to a slighter degree in Little Lake Sunapee, there has been deterioration. The Town of New London, under its Planning Board, adopted a master plan and a great deal of the water shed has now been rezoned conservation so as to reduce the amount of building in order that any further deterioration not take place.

Adopted. Ordered to third reading.

HB 107

providing for changing the classification of Pleasant Lake in the Town of New London. Ought to pass. Sen. Porter for Resources and Environmental Control.

Sen. PORTER: Mr. President, HB 107 is very similar to HB 118 except it deals with a different lake. It was amended in the House in very nearly the same manner as HB 118 and it was reviewed by our Committee. The same people who testified in behalf or in opposition to HB 118 also testified in behalf or opposition to HB 107. I did talk with a gentleman by the name of Charles Fosburg and he relayed his worry that the General Court, in calling for a reclassification to Class A, might create a domino effect in all lakes in the state. I tend to feel this way. There are some who feel that might be a prime objective. The point in question on HB 107, also to ask the Water Supply and Pollution Control Commission to demonstrate that the lake is capable of being Class A. There are two hundred families on Pleasant Lake; all but two drink from the lake currently, so the WSPCC feels that it will no doubt pass, however, tests must be performed before these class changes are made. I urge you all to support HB 107.

Sen. S. SMITH: Mr. President, I rise in support of this bill and of the previous bill. It happens that Squam Lake, which lies within my district, was the first lake in the state to be classified Class A. This lake has had great advantages over other lakes not so classified; it has been a terrific advancement for the aspect of recreation for the lake properties and also for the public who utilize these waters. It helps to preserve the lake in its present state; with a lower classification, many of these lakes will mature rapidly and when I say "mature" I mean turn into places such as Lake Winnisquam and I hope the Senate will give full and favorable consideration to the upgrade of these waters.

Adopted. Ordered to third reading.

HB 79

permitting eighteen year olds to serve liquor and beverage in certain cases as an incident to his or her primary employment of serving food, liquor or beverage to patrons. Ought to pass. Sen. Brown for Ways and Means and Administrative Affairs.

Sen. BROWN: Mr. President, HB 79 allows eighteen-year-olds to serve liquor at golf clubs. The present law is eighteen-year-olds can serve in restaurants now and sixteen-year-olds can serve at check-out counters in stores. This bill allows eighteen-year-olds to serve liquor in golf clubs. It only adds "golf clubs". It was unanimously voted in the Committee.

Sen. DOWNING: Would the golf clubs have to abide by the same rules and regulations of serving liquor as a restaurant does?

Sen. BROWN: Yes. It does not have to be a restaurant in a golf club.

Sen. DOWNING: So this would mean that eighteen-year-olds could be working in a barroom situation; just purely serving liquor?

Sen. BROWN: As I understand it, yes. They do not have to have food.

Sen. DOWNING: I rise in opposition to the Committee report. I can't see putting an eighteen-year-old in such a situation without restrictions. It should be limited to twenty-one year olds.

Adopted. Ordered to third reading.

SB 50

relative to rights of appeal in unemployment compensation matters. Inexpedient to legislate. Sen. Lamontagne for Ways and Means and Administrative Affairs.

Sen. LAMONTAGNE: Mr President and members of the Senate, SB 50 has been taken care of by other legislation. In other words, SB 50 has been put into HB 309 which will be discussed tomorrow at a Special Order of Business.

Sen. SPANOS: Mr. President, I move that SB 50 be made a Special Order of Business for tomorrow at 1:03 tomorrow. My only reason for making this request is the remote possibility that HB 309 may not pass and in that case, if this was turned down now, you might not have that consideration.

Adopted.

ANNOUNCEMENTS

The CHAIR would announce the appointment to the Spe-

cial Committee to deal with reapportionment the following members: Sen. S. Smith of the Third District as Chairman, Sen. Porter of the Twelfth as Vice-Chairman, Sens. Bradshaw, Spanos, Downing.

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock in honor of the Fiftieth Anniversary of the Women in the Legislature.

LATE SESSION

Third reading and final passage.

HB 80, to reduce the percentage of alcohol in the blood constituting prima facie evidence of intoxication and relative to samples taken for the purpose of the implied consent law.

HB 118, providing for changing the classification of Little Lake Sunapee.

HB 107, providing for changing the classification of Pleasant Lake in the Town of New London.

HB 79, permitting eighteen year olds to serve liquor and beverage in certain cases as an incident to his or her primary employment of serving food, liquor or beverage to patrons.

Adopted.

Sen. Gardner moved the Senate adjourn at 3:05 o'clock.

Adopted.

Wednesday
7Apr71

The Senate met at 1 o'clock in Joint Convention.

A quorum was present.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 152, providing standards for registration displays on snow traveling vehicles. (Gardner of Dist. 6 — To Public Works and Transportation.)

SB 153, clarifying the powers of counties and county conventions in determining salaries for county officers. (Jacobson of Dist. 7 — To Executive Departments, Municipal and County Governments.)

SB 154, to create an education aid fund to enable citizens of the state to attend private institutions of higher education. (Jacobson of Dist. 7 — To Education.)

SB 155, to require medical payment provisions in automobile liability insurance policies. (Leonard of Dist. 13 — To Banks, Insurance and Claims.)

SB 156, providing that thirty-six hour motor vehicle permits shall apply to purchases from out of state dealers. (Leonard of Dist. 13 — To Public Works and Transportation.)

SB 157, providing that towns shall pay for damage to livestock caused by any canine. (Townsend of Dist. 5 — To Executive Departments, Municipal and County Governments.)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 180, relative to district courts. (Judiciary)

HB 296, to raise the daily compensation of members of the Merrimack County Convention. (Executive Departments, Municipal and County Governments)

HB 464, relative to participation in the work incentive program. (Public Health, Welfare and State Institutions)

HB 393, providing for arbitration in labor grievances involving city employees. (Executive Departments, Municipal and County Governments)

HOUSE CONCURRENCE ON HOUSE BILLS WITH AMENDMENTS

HB 246, authorizing the use of breath tests to determine the percentage of alcohol in the bloodstream of motor vehicle operators.

HB 84, relative to the deposit of funds with the State Treasurer by the Secretary of State or the Fish and Game Department.

DISCHARGE AND REAPPOINTMENT OF COMMITTEE OF CONFERENCE ON

SB 25, modifying the requirements for membership on a municipal budget committee. The Speaker has appointed as new members of said Committee on the part of the House: Reps. Hanson, Blaine and Burke.

ENROLLED BILLS REPORT

HB 84, relative to the deposit of funds with the State Treasurer by the Secretary of State or the Fish and Game Department.

HB 87, relative to the penalty for guiding an unlicensed hunter.

HB 286, appropriating additional funds for the women's dormitory at the New Hampshire Technical Institute in Concord.

SB 5, providing payment to persons for loss of existing mortgage financing where such persons are displaced as a result of highway activities.

SB 51, providing for the Commissioners of Safety and Education to devise standards for the conduct of driver education courses.

HB 79, permitting eighteen year olds to serve liquor and beverages in certain cases as an incident to his or her primary employment of serving food, liquor or beverage to patrons.

HB 107, providing for changing the classification of Pleasant Lake in the Town of New London.

HB 118, providing for changing the classification of Little Lake Sunapee.

Sen. Provost
For The Committee

COMMITTEE REPORTS

HB 274

providing for certain transfers in the appropriations for fiscal year 1971 for the Division of Vocational Rehabilitation. Ought to pass with amendment. Sen. R. Smith for Finance.

AMENDMENT

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Transfers. Notwithstanding any other statutes to the contrary, there is hereby transferred from the sums available to the Division of Vocational Rehabilitation in the Department of Education for the fiscal year ending June 30, 1971, from out of state travel the sum of \$3,500 and from out of state travel vocational rehabilitation — cooperative program — federal \$1,000 and from cooperative program — federal personal services permanent \$100,000; \$3,500 to vocational rehabilitation other expenditures, case services and \$101,000 to vocational rehabilitation — cooperative program — federal other expenditures — other.

2 Effective Date. This act shall take effect upon passage.

Sen. R. SMITH: The only thing the amendment to HB 274 does is to provide an effective date which was omitted in the House. HB 274 is a very simple bill; all it does is reallocate monies that have already been appropriated to the Division of Vocational Rehabilitation. This is done in order to make available another \$104,000 for kidney transplants and other medical problems of this nature. I am sure you are all aware of the timeliness of this.

Sen. SPANOS: Mr. President, I rise in support of the Committee amendment and the bill itself. I would like to say that

the Finance Committee was unanimous in its support of this measure. In a conference with Mr. Batton, he outlined several of the cases which might now be taken care of by these funds. In one case, there will be a transplant of a tendon in the arm of a man now paralyzed which will allow the mobility of at least his hand so that he might become employable. There is another case where they will need a complete operation to rebuild a person's hip. I have just become aware of another case involving an individual in Sen. Marcotte's district who needs help because of a kidney transplant. These are the areas in which these funds would be applicable and I hope that the Senate will concur on the amendment and the bill.

Sen. KOROMILAS: Sen. Smith, you are taking out-of-state travel funds from the budget as it now stands and putting it in that category — is that correct?

Sen. R. SMITH: Yes, that is correct.

Sen. KOROMILAS: And these other items that are mentioned here are also taken out of the budget?

Sen. R. SMITH: That is correct. The reason for the bill is because the funds are not transferable under the rules.

Sen. KOROMILAS: So what you are doing is taking out-of-state funds and putting them in this particular program?

Sen. R. SMITH: Correct. I might add that this is about 98 percent federally funded; very few state dollars are involved here.

Amendment Adopted. Ordered to third reading.

SB 29

relative to investigating cases of abandonment and neglect of dependents. Ought to pass. Sen. Koromilas for Public Health, Welfare and State Institutions.

Sen. KOROMILAS: SB 29 is a bill sponsored by Sen. Morrissette. In a conference with Mr. Batton, he outlined several cases. The purpose of this bill to give the Welfare Department a chance to investigate in cases where legal support may be indicated and is not being paid by the proper party. To give an example, we have people who are divorced, the husband is paying a limited amount of support and the wife goes to the Welfare under ABC and collects money; the husband or

father is not pulling his fair share. The Welfare Department is taking a portion of the slack. This bill directs the Welfare Department to check and see who needs the money and if any legal action should be taken.

Adopted. Ordered to third reading.

SB 71

establishing a study committee to report on the feasibility of making available state owned recreational areas to exceptional or disadvantaged New Hampshire residents and making an appropriation therefor. Ought to pass with amendment. Sen. Snell for Public Health, Welfare and State Institutions.

Amend the title of said bill by striking out the same and inserting in place thereof the following:

AN ACT

establishing a study committee to report on the feasibility of making available state owned recreational areas to disadvantaged New Hampshire residents.

Amend the bill by striking out section 4.

Further amend the bill by renumbering section 5 to read 4.

Sen. SNELL: Mr. President, members of the Senate, basically, the amendment states changing "exceptional," in the title of the act. It also strikes out the appropriation of \$15,000 for the program and substitutes Number 5 in the place of Number 4.

Basically, the bill was created for the studying of the availability of recreational areas, namely two state owned summer camps know as Spruce Pond and Bear Hill Pond Camp. Both of these camps have a total acreage of 9,000 acres located in the Town of Allenstown. Both camps can accomodate 300 people per week. Under the present situation, the State 4H Association and the Camp Foundation of the 4H Program operate an eight week camping program for thousands of 4H members throughout this state. However, the camping program could be enlarged if this study committee sees fit to allow disadvantaged youth and adults to go in and use these facilities under the direction of the State Health and Welfare Department and the State Parks and the Cooperative Extension Service, who play a role now through the 4H program. Hopefully, this study

committee will come up with a recommendation and a program that will help out those that are disadvantaged as far as handicapped children; also the elderly, offering them a program in the Fall at this facility for a very small fee. This will be a new type of rehabilitation program at a very small cost. I hope that you will see fit to pass this legislation.

Amendment Adopted. Ordered to third reading.

SB 57

requiring hospitals to admit patients of any physician licensed to practice in the state. Refer to Judicial Council. Sen. Koromilas for Public Health, Welfare and State Institutions.

Sen. KOROMILAS: Mr. President, SB 57 has been sponsored by Sen. Leonard and all it does (and it does quite a bit) is in the case of a hospital refusing to admit a patient of any physician, duly licensed in the State of New Hampshire, when the facilities for caring for that person are available, the hospital would lose accreditation. The Committee felt that this was a very fundamental change in our hospital laws. We recommend that it be sent to Judicial Council.

Sen. LEONARD: Mr. President, I submitted this bill to the Senate for very good reasons. At the time the Committee heard the bill, I was unable to be present. I would like to state, for the record, the reasons why this bill was submitted as I didn't have the opportunity to do so in front of the Committee.

I have heard of doctors, who are well qualified, who desire to come to certain areas in the state such as Nashua, in one case, and Littleton, in another instance. They were well qualified. In fact, in two cases, the doctors were on the teaching staff of Harvard Medical School. There was a shortage of doctors in the fields that these two doctors were in, but they were not allowed to practice in the hospital. They were politely told that they were not needed.

Doctors are a united group of professional people and they are very jealous of their fields. I think in situations such as these where a person is qualified and licensed to practice in this state, nobody is hurt except the public when a doctor is not allowed to use the facilities of a hospital. This is the reason this bill was entered. I hope the Judicial Council will give this a thorough study. I feel it's one step forward and there is a lot more in the medical field that should be considered next year.

Sen. JACOBSON: Sen. Koromilas, why was this sent to the Judicial Council? Is this a judicial matter?

Sen. KOROMILAS: I think it has its judicial implications, yes. It has to do with rights of people and doctors.

Sen. FOLEY: Sen. Leonard, in this bill, if a doctor has been barred from a hospital, would this bill then force the hospital to allow him to practice?

Sen. LEONARD: If he was licensed to practice in the State of New Hampshire, he would be allowed to put his patient in that hospital. If the hospital has a regulation or rule that he cannot practice, then he would have to abide by that regulation. This was brought up two or three times by hospital administrators to me. They said that we have doctors in the state whom they do not want to practice in their hospital. The fallacy there is that if a person is not qualified to practice in a hospital, he shouldn't be practicing anywhere. The public is fooled again; they see a doctor, they know he is licensed to practice and they go to him. If he isn't capable of taking care of them, he shouldn't be a licensed physician. The public is being fooled and taken advantage of in these situations. That is the reason given by the hospitals but it won't sell me at all.

Sen. MORRISSETTE: Sen. Leonard, would this bill take care of cases where young unmarried girls have a hard time getting in any hospitals?

Sen. LEONARD: I think if the doctor was on the hospital staff and he wanted his patient in there, they would have to take her. I know in cases where they don't have to go in right away and the hospitals think they won't get paid, they don't want them in there. I think that is bad public policy; people interested in money more than anything else. I don't think this bill would help that case.

Sen. MORRISSETTE: A maternity case wouldn't be considered an emergency?

Sen. LEONARD: I think if a woman was going to have a baby in a few minutes and the doctor wanted her to be admitted to the hospital and they wouldn't take her, they would be in legal trouble.

Referred to Judicial Council.

HB 174

amending the charter of the Manchester Children's Home. Ought to pass. Sen. McCarthy for Public Health, Welfare and State Institutions.

Sen. McCARTHY: HB 174 merely updates the charter of the Manchester Children's Home so that it might better conform to federal guidelines in the area of discrimination policies and also Internal Revenue regulations. It just spells out specifically what they are doing now as far as practicing without discrimination in respect to race, creed, national origin and so forth. I am personally acquainted with the operation itself and I can only say the highest about its operation. It is a justifiable bill and I urge your support.

Adopted. Ordered to third reading.

HB 217

relating to occupational health services. Ought to pass. Sen. Marcotte for Public Health, Welfare and State Institutions.

Sen. MARCOTTE: Mr. President, the present legislation was written in 1945. The service was known as Industrial Hygiene and when reorganized, became the Bureau of Occupational Health under Health and Welfare. The only significant changes in the bill is that it increases the penalties and fines for infractions and also brings things up to date on federal regulations. Ordinarily, we covered industrial plants, service garages, miners, construction workers; about 120,000 people. Under the new federal standards, we will also include commercial establishments and increase the amount of people to about 226,000. There was no opposition from the Labor Department in the House and in the Senate.

Adopted. Ordered to third reading.

SPECIAL ORDER OF BUSINESS AT 1:01**HB 68**

prohibiting the hunting or taking of white deer, and defining the same. Indefinite postponement. (Requested by Sen. Snell)

Sen. LAMONTAGNE: Mr. President and members of the Senate, being a hunter, I would like to explain the reason why I favor indefinite postponement. Anyone who has seen any type of deer will find that its belly is white. The flag, which is the

tail, is completely white also. Therefore, I am afraid that by trying to preserve the white deer, some innocent person is going to be involved in shooting one of these deer unintentionally. It is very difficult to decipher a white deer when it is in hiding.

Division vote taken, the result being 9 Yeas, 12 Nays, the motion for indefinite postponement is lost.

Committee recommendation ought to pass.

Adopted. Ordered to third reading.

SPECIAL ORDER OF BUSINESS AT 1:02

HB 309

relative to unemployment compensation. (Requested by Sen. Downing)

Question on the adoption of the amendment as offered by Sen. Porter.

Sen. SPANOS: Mr. President, My apologies to you and to my colleagues if I, to some degree, confused the issue before us yesterday relating to HB 309 "relative to unemployment compensation". Let me see if I can clarify the situation today.

First of all, under existing law, an unemployed person must wait one-week before becoming eligible for unemployment benefits. Let me say that normally it takes 3 weeks to process his claim and before he receives his first check.

The House, earlier in the session, passed HB 309 (supported by the Labor Management Council) which among other things eliminated the waiting period completely. It came in to the Senate that way.

The Senate Ways and Means & Administrative Affairs Committee amended the House bill and it, in turn, eliminated the House provision on the waiting-period. This was one of the amendments we adopted yesterday which, in fact, re-instates the law as it is today — that is, a waiting period is required.

After adopting the Senate amendment yesterday which re-instated the waiting period, Sen. Porter offered a further amendment in this area. His amendment calls for no waiting period during a period of high unemployment in the state and when we are involved in the extension of benefits period. However,

during a normal rate of unemployment, the waiting period would still be applicable.

When I arose yesterday, I was under the impression that the Senate Committee amendments to HB 309 had not changed the House version. It was my impression that it was Sen. Porter's amendment which was changing the House version and that is why I spoke against his measure.

I oppose Sen. Porter's amendment and did so yesterday because I do not wish to see any waiting period at all. I hope you will defeat this amendment before you now so that I can offer you an amendment which, in fact, restores the House version which, as I have said, eliminates the waiting period completely.

If you favor eliminating the waiting period for the reasons I outlined yesterday, I respectfully ask that you turn down Sen. Porter's amendment and then vote to adopt the amendment which I shall offer. If you will pardon the usurpation of terminology ordinarily used by the Chair, is the parliamentary situation clear?

Sen. MORRISSETTE: I rise to speak in favor of Sen. Porter's motion. I hope that we will start thinking in terms of a little moderation and not go overboard. This is fair and generous. It is the most inflationary package put out in years. We have increased the weekly benefits by 25 percent. This is going to cost the state a lot of money remembering that most state employees are on a guaranteed salary and seldom get laid off. To make this package possible, we are going to require the small grocery store and the consumer and taxpayer to foot the bill. Remember that from here on, practically everyone in business will be included and in turn, will pass the cost to the consumer. This will include your hairdresser, mechanic, etc. Some will say that this is a negotiated package and there is no doubt it probably was. It seems reasonable to me to have the one week waiting period during times when jobs are in abundance. Others will say we have a reserve in our fund, but we must remember how important that is when we have a slow-down.

Sen. DOWNING: Sen. Morrissette, you made the statement that this was very inflationary as it represented a 25 percent increase in benefits. Does it, in fact, represent a 25 percent

increase in benefits or 25 percent increase in the maximum benefit?

Sen. MORRISSETTE: The 25 percent is in the maximum benefit. There is more coverage in that people who could not draw before are now able to do.

Sen. DOWNING: Isn't it a fact that some people in a given category will only realize a dollar increase in their benefits now, if the bill passes, as opposed to what they were?

Sen. MORRISSETTE: If you don't like the work and you happen to be down in the bottom, I suppose the weekly raise will not be that much.

Sen. DOWNING: You mention people who don't like to work. Do you recognize the fact that there are people who are capable of earning only the minimum wage?

Sen. MORRISSETTE: I recognize that but you have to remember that this amendment takes care of that. When you are in an unemployment situation, it goes up over 4 percent. What has taken place at this stage is a big surplus of jobs.

Sen. DOWNING: Could you tell me how many people, by percentage, will be affected only by a two dollar increase rather than 25 percent?

Sen. MORRISSETTE: I really couldn't give you those statistics.

Sen. LAMONTAGNE: On this bill the way it has been amended, will it affect any of the non-profit organizations or clubs in the State of New Hampshire?

Sen. PORTER: Yes. Some of them will be brought in under the wing of non-profit organizations on either the basis of contributor or reimbursement.

Sen. SPANOS: Sen. Porter, we have gone somewhat astray from the issue at hand but now that we are on it, isn't the bulk of the law before you now, HB 309, federally mandated legislation?

Sen. PORTER: Yes. About 90 percent of HB 309 brings the State of New Hampshire into conformity with several wide-sweeping federal regulations. There are four other states which

presently have no waiting period: Connecticut, Delaware, Maryland and Nevada. The amendment which I proposed yesterday does establish the no waiting period. The Senate Ways and Means Committee did eliminate that waiting period repeal. My amendment is a backing-off of the position a little bit so that there will be no waiting period, only in the high unemployment area.

Sen. NIXON: I rise in opposition to the motion offered by Sen. Porter and the distinguished Ways and Means Committee and in support of the position of the distinguished senator from the Eighth District who takes the position on my right. I have thought about this bill at some length and I did attend the caucus on it in the President's Office. At that time, I listened to the arguments made with respect to whether or not an employee, placed on unemployment involuntarily, should have to wait a week before initiating his eligibility period for unemployment compensation benefits. As I heard the reasons then, and in debate the other day, and to some extent today, I understand those which were advanced in support of making him wait a week before starting his entitlement to unemployment compensation were, one, historical; the law started out being enacted that way. That is one reason why, in all but four states, they have continued to require the employee to wait. That is not a valid reason for our continuing the waiting requirement.

The second reason in favor of making the employee wait is that as these laws were enacted, it was felt that there would be an administrative time lag in getting the benefits to him by reason of the processing of his application for unemployment compensation and so forth. It is said, on that account that the administrators were to be given a week in order to determine who was eligible and who was not. That argument doesn't hold up because, as I understand it from the statements made the other day, it takes two to three weeks for a fellow to receive his first check anyhow. If that is so, there is particular significance to the one week period, and I don't think *anyone* is arguing for a three week waiting period.

Another position that impressed me was that the cost to the employers concerned, with respect to whether or not the waiting period is a week or no waiting period, would be infinitesimal, if at all measurable, because they are paying into this fund at the same rate. The fund is there and the only

question is when the particular employee, who is unemployed, is eligible to start drawing out of the fund. I don't see how anybody would be able to statistically prove, one way or the other, that taking the waiting period out of the situation would require a particular employer to pay more, or a higher percentage into the fund.

The fourth argument I heard in support of retaining the one week waiting period is that it would encourage a discharged or laid-off employee to find other work because he would have a week without having any income, therefore he would tend to go out and scratch more than if he were receiving his unemployment compensation immediately. This again does not hold water with me because, as I understand the situation, it presently takes two to three weeks for him to get his first check anyhow. If he is not able to find a job in three weeks, he is in pretty tough shape.

It seems to me that the net effect of starting a fellow's eligibility for unemployment compensation benefits one week after his termination from employment is to penalize the diligent; the great majority of people who are honest and want a job because any job will pay as much, or more, as unemployment compensation. Anyone with a family cannot afford to live on unemployment compensation.

These are my reasons for supporting the House version of the bill which repealed the one week waiting period, and for opposing the motion now before you.

Sen. KOROMILAS: I think I heard you say that if there is a higher rate of unemployment with respect to an employer, it doesn't cost him anymore?

Sen. NIXON: No. I said that I had not heard any evidence or testimony indicating that the abolition of the waiting period would measurably increase the percentage or amount that an employer would have to pay into the fund.

Sen. KOROMILAS: It would seem that the employer would have to pay the first week.

Sen. NIXON: If the payments were made directly by the employer, yes. But he pays into the fund.

Sen. KOROMILAS: Is not the amount he pays gauged on

the number of people that are unemployed in his particular place of business?

Sen. NIXON: I do not know that and it may be so, but I was advised that the increased burden on any particular employer would be infinitesimal.

Sen. MORRISSETTE: Have you heard the statement made frequently that during times of no unemployment where jobs are plentiful, that it is the same people that draw unemployment all the time? Are you aware that it is getting to a point where it's up to around 9 or 10-percent of our costs?

Sen. NIXON: I am not aware that jobs are plentiful in New Hampshire right now. Jobs are not plentiful.

Sen. MORRISSETTE: Are you aware that the amendment calls for this waiting period only during times of plentiful jobs?

Sen. NIXON: I understand that but I see a very distinct, practical problem in determining when you have this trigger-in or trigger-out effect, as it has been described, and again, I don't think that it does other than penalize the diligent.

Sen. FERDINANDO: I rise in support of Sen. Porter's amendment. I feel that the decision made here today will come back in caucus someday. I see, in this bill, a socialistic trend to discourage people to work in some cases. This is very reasonable and fair but just how far do we go?

Sen. FOLEY: Sen. Ferdinando, isn't it true that if a person was offered a job, he wouldn't be eligible for unemployment because he had refused the job?

Sen. FERDINANDO: In some cases, but people who don't want to accept these jobs certainly find some reasons, being training qualifications, etc. There have been many abuses.

Sen. SNELL: Sen. Ferdinando, if you were considered unemployed as of today, would you feel that you would like to receive your check one week early?

Sen. FERDINANDO: I am not sure about that.

Sen. SPANOS: Sen. Ferdinando, you made the statement that this is socialistic. Isn't it almost axiomatic that when people have no money with which to feed and clothe their families, that they turn not to Socialism, but to Communism?

Sen. FERDINANDO: This may very well be, but I think we have to understand that there is a Health and Welfare system in our country that has to be considered as a source of supply for some of these needs.

Sen. NIXON: Do I understand, by your last statement, that you would prefer that people who are unemployed, instead of becoming eligible for unemployment compensation through a fund contributed by employers, should then go on welfare at the expense of the taxpayers?

Sen. FERDINANDO: It's not necessarily so. I don't see anyone leaving New Hampshire because of the benefits.

Sen. KOROMILAS: I rise in support of the pending motion. I think we all agree that if this bill were to be passed today with this amendment, everyone in the state would be getting the first week. In other words, the unemployment rate, at the present time, will allow every person to claim the first week. There would be no waiting period under the present economic situation. I think that this state has had a one week waiting period since the conception of the bill. I think there are 15,000 now unemployed in our state. A person is entitled to 26 weeks in the ordinary period and 39 weeks in the unusual period of high unemployment.

Sen. JACOBSON: Sen. Koromilas, you drew the parallel with regards to the payment for dentures, eyeglasses etc. in Britain. Is there not a distinction between this kind of thing in which the initiation is on the part of the individual and the situation of the unemployed individual who may become unemployed without any initiation on his own part?

Sen. KOROMILAS: There may be a distinction.

Sen. SPANOS: Sen. Koromilas, you indicated that you could not see any loss to an employee who may become unemployed because he is going to get the 26 or 39 full weeks. What about the man who is unemployed for a period of 8 weeks — would he not lose one week?

Sen. KOROMILAS: Yes.

Sen. DOWNING: I rise in opposition to the pending motion, being the amendment of the Committee. We heard some testimony relative to abuses, but I would hope we don't forsake

human dignity and justice for some minor abuses. I cannot equate, in my own mind, how the Committee could recognize the need for that first week's check after we enter into the high unemployment period. The first week of unemployment is a first week of unemployment regardless of when you meet it. The need for the money is just as honest. The fact that the Committee could understand the need for this money at some point along the program, tells me that they could have recognized the need immediately. An individual out of work is out of work. They have commitments, obligations and they have to meet them now; not a week from now. I would like to remind my colleagues that the Labor-Management Council approved the original House version. Commissioner Adams was in favor and approved it also and I do as well.

Sen. PORTER: Sen. Downing, do you believe this amendment is proposed from the Senate Ways and Means Committee?

Sen. DOWNING: Yes.

Sen. PORTER: Well, it is not. It is my amendment.

Sen. DOWNING: Sen. Porter, then this amendment you are offering does not, in fact, have the support of the Committee?

Sen. PORTER: That is correct. That is why I stood up; I didn't want to mislead anyone.

Sen. LAMONTAGNE: John Useau of Cascade, New Hampshire had a wife and two children. He was working for a company and at the end of the sixth day, after he had filed, he got a notice to go back to work on Monday. He worked on Monday and was laid off again. At the end of five more days, he got a notice to come back in again. Now, the man received a check for \$33. How can a man live and support his family with \$33?

I made a call to the Employment Security Office to inquire as to the rights of the company. I found that the company had not submitted its support to the Unemployment Security Office concerning its unemployed personnel. Still, this man did not get his check even in the second week.

Division vote taken, the result being 8 Yeas, 14 Nays, the motion on the adoption of Sen. Porter's amendment lost.

Sen. SPANOS: I offer an amendment to HB 309.

AMENDMENT

Amend the bill by inserting after section 35 the following new sections 36 and 37:

36 Repeal: RSA 282:3, D (supp) as amended by 1969, 460:5, relative to waiting period prior to the payment of benefits, is hereby repealed.

37 Waiting Period Requirement Removed. Amend the unnumbered opening paragraph of RSA 282:4 as amended by 1955, 141:9, by striking out all after the word "benefits" in line two, so that said paragraph as amended shall read as follows: An individual shall be disqualified for benefits:

Amend the bill by renumbering the original section 36 to read 38.

Amend paragraph I of the newly numbered section 38 by striking out said paragraph and inserting in place thereof the following:

I. On February 6, 1971, sections 18, 26, 32, 36 and 37.

Sen. SPANOS: Mr. President, the amendment before you reinstates the House version of HB 309 eliminating and repealing the waiting period, drafted by Arthur Marx who started yesterday to do it before the special order. We have had the debate on it and I hope you will adopt it.

Amendment Adopted.

Sen. KOROMILAS: I move Suspension of Senate Rule 24 in regard to HB 309.

(discussion)

Motion Lost.

Referred to Finance.

Sen. JACOBSON: Mr. President, I move that the Senate recall HB 242 from the Governor's Office. As I indicated the other day, HB 242, under emergency circumstances, was passed in a garbled fashion. It was my intention to put a trailer bill later on to make some corrections. It has now been discovered that there are even more corrections that need to be made so that the effect of our passage has stopped. Therefore, I am requesting that the bill come back — the Governor is very reluctant to sign this bill in its garbled fashion. Then we can add

all the amendments and come up with a ship-shape bill that will stand muster.

Sen. KOROMILAS: What is HB 242?

Sen. JACOBSON: It is the bill that deals with recertification and reverification of checklists in New Hampshire.

Sen. DOWNING: I am not sure exactly what the status is of the communities under the present statute, if we delay this type of action.

Sen. JACOBSON: The present statute now is that on April 1, they were to begin the initiation of the recertification and reverification. However, when we passed the bill, the Secretary of State passed out the word that they did not need to proceed because the Legislature was going to pass it.

Sen. DOWNING: Then it is the understanding that this will stay in the state of limbo? The Secretary of State will not be sending out an additional notice?

Sen. JACOBSON: No, The Secretary of State will not because we did, in good faith, pass the bill with respect to our legislative intent. The Governor is not opposed to the bill, but to the way in which the appropriation has been set up.

HB 242 recalled.

SPECIAL ORDER OF BUSINESS FOR 1:03

SB 50

relative to rights of appeal in unemployment compensation matters. (Requested by Sen. Spanos). Inexpedient to legislate. Sen. Lamontagne for Ways and Means.

Sen. SPANOS: Mr. President, at this time I rise in full support of the Committee report. I requested the Special Order because I wanted to make sure that the bill, which was introduced by Sen. Lamontagne, and its content, were passed by the Senate. The content of his bill is incorporated in HB 309, therefore I see no reason to delay the matter and we can vote it "inexpedient to legislate."

Resolution adopted.

PERSONAL PRIVILEGE

Sen. NIXON: Mr. President, last week this Senate, in its

wisdom, passed HB 246 relating to breathalyzer tests for the purposes of conviction of driving while under the influence of alcoholic beverages. During the debate, Sen. Marcotte astutely pointed out that there might be some similar difficulty with breathalyzer machines, in terms of accuracy, that have been experienced, in some people's judgment, in respect to radar machines. An astute constituent from Sen. Marcotte's district, Mr. John V. Amero of 24 Chamberlain Street, Rochester, N.H., sent to the Senate Judiciary Committee today the following article taken from the *Wall Street Journal* of April 5, 1971.

By a *Wall Street Journal* Staff Reporter.

NEW YORK — The breath analysis machine, a gadget that can convict a person of drunken driving on the evidence of a single breath, appears to need some analysis itself.

A scientist has found that the most widely used of the machines, the Breathalyzer, can pronounce a person "legally drunk" even if his true alcohol level is zero. And the machine, he says, is "totally unreliable for at least the first 20 minutes after exposure to alcohol."

The machine was tested by N. Herbert Spector while he was at the Medical College of Virginia in Richmond. He's currently at the Universite de Lyon in Lyon, France. His report is in the latest issue of Science magazine.

The breath analysis machine is used by police in most states to measure the level of alcohol in a driver's blood. The National Safety Council says that in Chicago alone "several hundred drivers" have been sentenced to seven-day jail terms since the first of the year on the basis of breath analysis evidence.

The machine gets this evidence by collecting and analyzing alveolar gas, which is the last sample collected at the end of a forced respiration. But Mr. Spector found that just swishing the mouth out with alcohol was enough to contaminate the alveolar gas so that it registered on the Breathalyzer.

Mixed with Water, Orange Juice

Mr. Spector asked his subjects to take sips of alcohol, mixed with water or orange juice, to swish it around their mouths and then to spit it out. This was repeated for several minutes.

He then tested the subjects on the Breathalyzer. Although

they hadn't swallowed any alcohol, the machine disagreed. "If these were true readings, the subject should have been totally inebriated, possibly at severely toxic or even lethal levels," Mr. Spector reports.

He found the Breathalyzer was "highly inaccurate" for at least 20 minutes after the final sip and swish of alcohol.

After taking blood samples from the subjects he found that the "actual concentration of alcohol in the blood was either at zero or extremely close to zero. This, he says, shows that only a negligible amount of alcohol had been absorbed into the blood via mucous membranes of the mouth.

He also found that the "false" Breathalyzer readings weren't prevented by following each swish of alcohol with a swish of water. "Results after mouth washings with water were strikingly similar to those without washings," he notes.

Even a sniff of alcohol can affect the Breathalyzer, he reports. The machine recorded alcohol on the breath of a subject who sniffed a flash of alcohol two centimeters from the edge.

Errors "All But Impossible"

Mr. Spector says the Breathalyzer instruction book doesn't mention that the machine is "unreliable" for at least 20 minutes after exposure to alcohol. In fact, he says, the book states that when the instructions for proper use are followed "errors are all but impossible."

The Breathalyzer is made by Stephenson Corp. of Red Bank, N.J. Richard Martel, the concern's marketing manager, said he didn't know whether the instruction manual mentions the Breathalyzer's time problems. But, he insisted, that's academic because the company has a week-long Breathalyzer training program in which police are told to wait at least 15 minutes before testing a suspect.

Mr. Spector's findings will no doubt be received with dismay in Britain where use of breath analysis machines was made mandatory in 1967. Since then the machines have been credited with causing a 70% reduction in the number of fatal accidents by keeping drunken drivers off the road.

But now, it appears, the machine's analysis can be contested. Mr. Spector admits that his findings have "legal and sociologi-

cal implications." And he fears that the results of his experiments might be used "for evasion of penalties by intoxicated drivers."

I think, Mr. President, the item in here to the effect that experience and training is needed in administering breathalyzer tests and that there is a 15 to 20 minutes waiting period before the machine's accuracy can be guaranteed or even, as I understand it, made a matter of probability, should be made a part of the record of this Senate in connection with its decision on the breathalyzer machine in the interest of all concerned. I congratulate Mr. Amero and Sen. Marcotte for having people of this astuteness in his district.

Sen. DOWNING: I feel that, due to the recent testimony heard and having originally given the Committee Report relative to the breathalyzer, that I must respond. While I don't challenge Mr. Spector's findings, I feel that the context that it is put in leaves something to be desired. I couldn't imagine anyone standing around squashing orange juice and alcohol in the mouth for five to ten minutes before they got in their car.

Secondly, I would like to compliment the Senate in its wisdom in recognizing that training was necessary for the passage of this bill and also for requiring that two tests would be made which would insure safety. I was also pleased that the back-up of the blood and urine tests were left in.

Sen. FOLEY: Mr. President, a young gentleman from the UNH came in before we started our session and while I am not in agreement with the University students asking Mr. Davis to speak there, the gentleman said that the report in the paper made it seem as though Mr. Davis was the only speaker to be at the University. He asked me to relay to the members of the Senate that Dr. Bridno was going to debate Mr. Davis between 11:00 and 12 o'clock on April 14 and in addition, during the following weeks, Dan Moynihan, Paul Samuelson, a film on Mr. Buckley, Al Capp, A Symposium on South East Asia and a representative from the South Viet Nam embassy would also be at the University to speak.

Sen. MARCOTTE: I would like to thank the senator from the Ninth District for his comment on the breathalyzer machine.

Sen. Spanos moved the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock.

Adopted.

LATE SESSION

Third reading and final passage

HB 274, providing for certain transfers in the appropriations for fiscal year 1971 for the division of vocational rehabilitation.

SB 29, relative to investigating cases of abandonment and neglect of dependents.

SB 71, establishing a study committee to report on the feasibility of making available state owned recreational areas to disadvantaged New Hampshire residents.

HB 174, amending the charter of the Manchester Children's Home.

HB 217, relating to occupational health services.

HB 68, prohibiting the hunting or taking of white deer and defining the same.

Adopted.

Sen. Tufts moved the Senate adjourn at 3:23 o'clock.

Adopted.

Thursday

8 Apr 71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

ALMIGHTY GOD, who in the life and teaching of thy Son hast showed us the true way of blessedness: Thou hast also showed us in his sufferings and death that the path of duty may lead to the Cross and the reward of faithfulness may be a crown of thorns. Give us grace to learn these harder lessons. May we take up our cross and follow Christ in the strength of patience and the constancy of faith; and may we have such fellowship with him in his sorrow that we may know the secret of his strength and peace, and see, even in our darkest hour of trial and anguish, the shining of the eternal light. Amen.

(A Good Friday Prayer from the "*Book of Worship for Free Churches*".)

Pledge of Allegiance was led by Sen. English.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 158, relative to the assignment of pupils under dual enrollment. (Jacobson of Dist. 7 — To Education.)

SB 159, abolishing the State Rifle Range Commission. (Bradshaw of Dist. 10 — To Resources and Environmental Control.)

SB 160, requiring the use of the non-partisan ballot for the election of a budget committee. (Spanos of Dist. 8 — To Executive Departments, Municipal and County Governments.)

CACR 29, Relating to: Compensation and Reimbursement for Expenses of Members of the General Court. Providing that: Members shall receive a per diem of twenty-five dollars, travel allowance of one round trip per legislative day and reimbursement for actual expenses. (Jacobson of Dist. 7 — To Judiciary.)

HOUSE MESSAGES
HOUSE CONCURRENCE

SB 56, relative to the suspension of motor vehicle licenses of minors in possession of alcoholic beverages.

HB 80, to reduce the percentage of alcohol in the blood constituting prima facie evidence of intoxication and relative to samples taken for the purposes of the implied consent law.

INTRODUCTION OF HOUSE BILL

First, second reading and referral

HB 432, relative to the rabies control law. (Public Health, Welfare and State Institutions)

COMMITTEE REPORTS

HB 231

requiring that the articles of agreement of voluntary corporations and associations provide for the disposition of the assets of such corporations upon their dissolution. Ought to pass. Sen. Leonard for Executive.

Sen. LEONARD: Mr. President, this is a simple house-keeping bill. Many times, voluntary corporations dissolve and they have assets that they don't know what to do with and they don't know what the IRS wants to do with them. This requires that when they incorporate, they put down the information that provides for the disposition of corporate assets in the event of dissolution of the corporation. In this way, it would be satisfactory to the IRS and easier on the people. It does not require that voluntary corporations, who are in existence now, will have to do this; just new ones. Voluntary corporations in existence at this time will have to do this before they dissolve.

Adopted. Ordered to third reading.

HB 194

relative to payment of vacation wages. Ought to pass. Sen. Leonard for Executive.

Sen. LEONARD: Mr. President, this bill provides that vacation pay is considered wages. This has been a policy with the Commissioner of Labor for many years. It could be classified as a housekeeping bill; it doesn't change the policy; it just backs up the present policy.

Adopted. Ordered to third reading.

SB 86

creating the position of Executive Director of the Commission on the Arts. Ought to pass. Sen. English for Executive.

Sen. ENGLISH: Mr. President, SB 86 sets up the duties of the Executive Director of the Commission on the Arts. It does contain an amount for his salary so that it would go to the Finance Committee under the rules. The amount for his salary is already in the budget so the two will be brought together. His services are needed by the Commission. Referred to Finance under the rules.

HB 82

relative to the expenditure of funds in urban renewal programs. Ought to pass. Sen. Jacobson for Executive.

Sen. JACOBSON: Mr. President, under the present statute, a housing authority of the municipality may put forward a report to the municipality. There has been a long hassel in the House over this question and finally, all parties agreed to this bill. What HB 82 does is that at least 30 days prior to the annual public hearing on a municipal budget, the housing authority of that community shall file a financial report on the authority's last fiscal year. That fiscal year must end 90 days prior to the public hearings. The housing authorities in our communities have flexibility with regards to establishing their particular fiscal year. There was considerable interest in this bill, particularly from the City of Lebanon and the City of Manchester.

Adopted. Ordered to third reading.

HB 2

providing that voting residence is not lost by being in a nursing or convalescent home or hospital. Ought to pass. Sen. Jacobson for Executive.

Sen. JACOBSON: HB 2 prevents a practice that occasionally happens; that is if an individual goes to a nursing or convalescent home for an extended period of time, there is the possibility that some eager supervisor of the checklist will write that individual off. As the sponsor of the bill, Hilda Brungot, says, we don't go to the nursing home to die; we hope to come back. In order to prevent being removed from the checklist, this bill was introduced so that despite the fact that a person is in a home for an extended period, that person will not lose his original voting residence.

Sen. LAMONTAGNE: I would like to move that HB 2 be made a Special Order of Business for next Thursday, April 15 at 1:01. A member of the House contacted me this morning and brought to my attention that some of our senior citizens live outside of a nursing home and would like to have equal rights because of their living with relations or friends. I would like to have the opportunity to go over this in order to see if we could take care of these other people.

Adopted.

HB 318

relating to the Town of Gorham. Ought to pass. Sen. S. Smith for Executive.

Sen. S. SMITH: Mr. President, HB 318 relates solely to the Town of Gorham and its water department. The department is established under charter and one of the limitations in the charter is to its borrowing capacity. At the present time, they are in the process of laying great quantities of new pipe and due to the reconstruction of highways in the Town of Gorham, they are asking that they be placed permanently under RSA 33, which is the usual limitation chapter on borrowing.

Sen. JACOBSON: Mr. President, I would also like to add that the bill presently states the laws of 1905 and 1917 and when I asked the Enrolled Bills Committee, it was technically left off to add 1919 to it also to make it completely correct.

Sen. S. SMITH: Mr. President, I move that HB 318 be tabled. Due to this technicality of adding 1919 after 1917, I hope that instead of having it done by Enrolled Bills Committee, that the proper procedure should be to have it done by amendment at the earliest possible time.

Adopted.

HB 292

conveying a certain portion of land which was formerly part of Silver Lake in the town of Madison to J. Donald Hayes and Dorothy V. Hayes. Majority: Ought to pass. Sen. Lamontagne for Judiciary. Minority: Inexpedient to legislate. Sen. Koromilas for Judiciary.

Sen. LAMONTAGNE: Mr. President, this is a bill that was put in by a member of the House. Mr. and Mrs. Hayes are now living in a hotel because the money from the building

which was sold is now in escrow and they cannot use the money until the bill is passed. A majority of the members of the Committee felt that this was a fair bill and that this had been done before via three methods: going to court, appealing to the Governor and Council, or an act of legislation. It is my understanding that he has been advised to take the third step and a majority of the members of the Committee are in favor of the passage of this bill.

Sen. SPANOS: Sen. Lamontagne, what is the reason for the legal problem involved for the escrow account — why are they holding up the money?

Sen. LAMONTAGNE: I believe it is a question in regards to the railroad. The railroad goes through the property and there doesn't seem to be anything in the records.

Sen. MORRISSETTE: Is there a problem whereby deeding this railroad land that it might be a state problem in that the state may be trying to acquire the right-of-way that the railroad has had.

Sen. LAMONTAGNE: I am sure that there is not that problem.

Sen. KOROMILAS: I move that the minority report, "inexpedient to legislate" be substituted for the majority report, "ought to pass." I did have a great deal of difficulty in coming to the conclusion that I have reached. I believe the situation here is very clear.

In 1890, it appears that a predecessor entitled Mr. Hayes bought land. Somewhere along the line, the railroad put up an embankment and therefore, Silver Lake flowed out of the area; a depression occurred where once there was a lake. Subsequent to that time, other people purchased the property and made a dividing line and Mr. Hayes took one part and the other person took the other on the basis of the agreement. This is an honest transaction. What happened when Mr. Hayes tried to sell the piece of land recently was that he found that the state had a title because you cannot take state property by adverse possession. That is to say if a person holds a piece of land more than 20 years and it goes unnoticed, that person usually gets adverse possession of the land. However, in state property, you can *never* get possession by adverse possession.

The bill has been entered by Mr. Hayes and would give a warranty deed to him to give him the land up to the high water mark. It would cover that particular property on which his house is built and which he sold in good faith and honesty. What has happened is that the bank, when it researched the title, found that he didn't have a clear title.

The reason I entered a minority report is because I feel that today we cannot afford to enter legislation for ourselves and ask the members to go along with it. I feel that it is an inequitable situation for Mr. Hayes. I think he paid for the property and he is selling the property. What I object to is the procedure under which a member of the Legislature would enter a bill and ask his colleagues to pass it. I think there is an alternative and I strongly recommend the alternative. Under RSA 229:10, the Commissioner of Public Roads may sell and convey land to a private individual provided that this was with the consent of the Council and Governor. The present RSA 229:10 only talks about highways, so the Commissioner could not sell with the advise and consent of the Governor and Council because it has nothing to do with the highway. What I would recommend is an amendment to a bill to allow the Commissioner of Public Roads to convey this particular land to Mr. Hayes if the Governor and Council so ordain.

Sen. LAMONTAGNE: Sen. Koromilas, what do you mean by ourselves?

Sen. KOROMILAS: I mean the Legislature passing a bill that would benefit a colleague.

Sen. LAMONTAGNE: If it was someone outside of the Legislature, would you be in favor of such legislation?

Sen. KOROMILAS: I would say "yes."

Sen. LEONARD: Mr. President, as Sen. Koromilas states, this is a bill to take a cloud off the title of Rep. Hayes' property. The present laws wouldn't apply because the claim that the state might have is a very peculiar one. It might not come up again in fifty years. My understanding is that Silver Lake was cut out and dried up and that is where Mr. Hayes' property is located. The state never owned this land, however, since Silver Lake is a great, public pond, the state would have a claim to that piece of land. I feel that the only safe way to deal with

this matter is to pass a bill. It doesn't bother me that Mr. Hayes is a member of the Legislature or not; he has a legitimate claim and was advised that this was the proper procedure. We should vote this "ought to pass."

Sen. NIXON: Mr. President, I also oppose the motion to substitute offered by the distinguished senator from the Twenty-first District. It may well be that a statute could be amended to permit these things to be done another way. On the other hand, Mr. Hayes, in good faith, relied upon the legal advice given him as to the way in which the question of title could be clarified, having in mind, of course, that the procedure recommended to him involved two public hearings, publication in the *House* and *Senate Journals* and there isn't any indication at all of an attempt to discriminate in favor of a member of the Legislature at the expense of the general public. I ask that you go along with the Committee Report and support this particular measure, having in mind, however, that I think the statutes might well be amended to cover other such situations in the future.

Sen. LAMONTAGNE: Mr. President, I would hope that the report would be adopted. Mr. Hayes' membership in the Legislature should not effect his rights. I have documents and pictures with me that might help those who have questions understand the bill more clearly.

Sen. DOWNING: Mr. President, I rise in opposition to the minority report. I don't feel that a member of the Legislature should be classified as a second-class citizen. This is the only avenue open to Mr. Hayes; he is following the advice of his counsel and I don't feel his request should be denied.

Sen. SPANOS: Sen. Leonard, there is one thing that is bothering me and that is the recourse to the courts. Is that something that cannot be done or is it merely because it is going to take too much time? Is there a legal problem in preventing him from going into court and petitioning to remove the cloud on the title?

Sen. LEONARD: I don't have enough information on the legal part of it but it certainly is a different type of a cloud on the title than what you normally have in court. From what Rep. Hayes said in the hearing, I got the feeling that this is what he was advised to do as the only possible method.

Question on minority report, "inexpedient to legislate."
Motion lost.

Sen. NIXON: I do not have an amendment in written form, Mr. President, but it is a very simple one. The bill, in the second line, provides that the Governor and Council, "is hereby authorized and directed to convey by deed." My amendment, by way of this motion, is to remove the words, "and directed" from the bill as it is now before us so that the Governor and Council will have authority to convey, but will have the right to use their constitutionally granted discretion in the matter. I do not think that one body of the government should be telling another body what to do in the fashion that this language sets forth.

RECESS

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Land to be Conveyed. The Governor and Council, for a consideration established by the Department of Public Works and Highways, are hereby authorized to convey by deed, in the form and content as prepared and approved by the Attorney General, to John Donald Hayes and Dorothy Violet Hayes, both of Madison, County of Carroll and State of New Hampshire, as joint tenants with rights of survivorship; all of the State of New Hampshire's right, title and interest in and to that parcel of land situate in the Town of Madison, County of Carroll and State of New Hampshire bounded and described as follows: beginning at a point being the most southerly corner of the lands conveyed to the said John Donald Hayes and Dorothy Violet Hayes by warranty deed of Gladys M. Prescott dated April 19, 1954 and recorded in volume 335 page 505 of the Carroll County Registry and marked by an iron pipe; thence northeasterly along the easterly line of said lands of John Donald Hayes and Dorothy Violet Hayes, three hundred feet more or less, to the northeasterly corner of said lands; thence southeasterly, at right angles, to the high water mark on the westerly shore of Silver Lake in said Town of Madison; thence southwesterly along the line of said high water mark three hundred feet more or less; thence northwesterly to the point of beginning.

Amendment Adopted. Ordered to third reading.

CACR 19

Relating to: Adoption of Constitutional Amendments by a Majority of Voters. Providing that: Proposed Constitutional Amendments may be Approved by a Majority of the Voters Present and Voting on the Subject. Inexpedient to legislate. Sen. Koromilas for Judiciary.

Sen. KOROMILAS: Mr. President, this CA CR 19 would allow, if passed by the voters, that every CA that was proposed could be passed by a majority vote. CA's, at the present time, require two-thirds of the people voting to pass it. I know of no written constitution in existence that allows it to be amended by a majority basis. I know it is difficult but we have to be patient. Written constitutions provide for a two-thirds majority because, in some instances, the minority has to be protected. For example, we have the Bill of Rights. I can foresee that when people are restless and felt that some of the rights that are enshrined in our Constitution may be amended by a simple majority. This is a fundamental change and I feel we should report it "inexpedient to legislate."

Resolution adopted.

CACR 17

Relating to: Increasing the Membership of the Senate, Changing Senate Quorum Requirements, and Providing for Apportionment, and Providing that: The Membership of the Senate Shall be Increased to Thirty-six, Changing Senate Quorum Requirements, and Providing for Apportionment. Inexpedient to legislate. Sen. Lamontagne for Judiciary.

Sen. LAMONTAGNE: Mr. President, the Committee felt that CA CR 17 had been brought up before the people several times and for that reason reported it "inexpedient to legislate."

Sen. SPANOS: I move that the words, "ought to pass" be substituted for the Committee Report, "inexpedient to legislate." I am offering this CA with no political motives. The amendment that I am proposing today I have supported since I was a member of the Constitutional Convention in 1964 because I believe it will make for better representation. The Constitutional Convention did submit to the voters an amendment increasing the size of the Senate from twenty-four to thirty-six. In my opinion, if I can remember correctly, it came very close to passing. The problem was that many people were sent down to

the Convention to help reduce the size of the House and the people at home were disappointed to see the Convention come out not reducing the size of the House, but increasing the size of the Senate. I believe that had a great deal of psychological effect on the voters.

The main reasons I support this CA is because I firmly believe, having served in this body for three terms, that we, as senators, are spread very thin. Many of us serve on three committees. Many of us have to testify on our own bills or on behalf of someone else's bills. It makes it very difficult to be in all of these places at the same time. It is becoming difficult to handle the number of bills that this body is sponsoring and the number that is coming in from the House. We have close to 2,000 bills that are pumped into the system and I feel it is getting very difficult to handle that productivity and do a good job at it.

I also feel and subscribe to the belief that if we change from twenty-four to thirty-six, we will, to some degree, perpetuate the personalization of our efforts to our constituents. If we remain at twenty-four, the district will grow larger and we will not be able to have the same repartee that we have had with our constituency in the past. That is bad to some degree. States of equivalent size to New Hampshire have the following populations and senators: Montana, 700,000 population; 104 Representatives, 55 Senators. Maine, 992,000 population; 151 Representatives, 32 Senators. Idaho, 712,000 population; 70 Representatives, 35 Senators. New Mexico, 1,000,000 population; 70 Representatives, 42 Senators. Vermont, 500,000 population; 150 Representatives, 30 Senators. Wyoming, 300,000 population; 62 Representatives, 30 Senators. Rhode Island, 908,000 population; 100 Representatives, 50 Senators. Utah, 1,000,000 population; 69 Representatives, 28 Senators.

I just bring these out to show you that some of the states that are equal in population to New Hampshire or around there, seem to have larger Senates than we do. I also admit that they also happen to have smaller Houses. However, I subscribe to the philosophy of reducing the size of the House and I have always stated so. I don't know how, in good conscience, we can advocate a reformation in the House without advocating a reformation in this Chamber. I respectfully request your support in this measure.

Sen. MORRISSETTE: I rise in support of Sen. Spanos. I can't think of too many logical reasons to oppose increasing the Senate and obviously the House would have to be reduced in turn. I feel that I could do a much more efficient job for my people if I had the necessary time. If CACR 18 could be amended to make us a more effective body, we wouldn't need to increase the Senate. We have much work to do and not enough time in which to accomplish it. I hope you support this.

Sen. LAMONTAGNE: Mr. President, I rise in opposition to the pending motion. I have been in this Senate for the last nine terms and I feel that I have served as many as five committees and not once can I say that I have been so busy that I couldn't attend committee meetings. Although in the past years, these meetings used to start at 9 A. M. and reconvene later. I am presently on Judiciary, Ways and Means, Public Works and Transportation and I can say that I don't feel that I am too busy.

Sen. TOWNSEND: Sen. Lamontagne, are you a member of Public Works and Transportation?

Sen. LAMONTAGNE: Yes.

Sen. TOWNSEND: Were you aware of the fact we had a hearing this morning?

Sen. LAMONTAGNE: No, I was not aware of this, but I was here and had I known, I would have been there.

Sen. TOWNSEND: Sen. Spanos, are you aware of the fact that if CACR 19, which I sponsored, were a part of our present Constitution, you would not have been required to enter your CACR at the present time?

Sen. SPANOS: Yes, I understand that and I sympathize with you deeply, but I must say that had your amendment been 60 percent, I would have supported the measure as we did in the Constitutional Convention.

Sen. MORRISSETTE: Sen. Lamontagne, would you say that you had time to read most of the bills?

Sen. LAMONTAGNE: Senator, even if you had thirty-six members, you would never be able to read all of them. Wait until you see what is coming in the next two weeks!

Sen. MORRISSETTE: Have you had time to visit your departments and try to originate bills to save money for our state?

Sen. LAMONTAGNE: I think you will find from many department heads that they see me quite often. Yes, I have the time and I take the time.

Sen. JACOBSON: I very reluctantly rise in opposition to the pending motion. I don't think that the argument of personalization or the time factor goes to the gist of the problem. Of the fifty states in our country, our representation with regards to the number of people we represent is better than forty of them. There are two that are very close to us. You might be interested in the fact that some of them run over a half of million. The question of personalization — I don't know if I could be any more personal with 21,000 or 22,000 as I can with 30,000 people. I don't think that is a possibility. My concept of the Senate is that it ought to have a kind of representation that covers a sufficient area so that the senators' view is somewhat less parochial. When I sit here, I have to think, not only about London, but also about what a bill does for Franklin, Tilton and Northfield. This kind of overview, I believe, is the basic role of a senator. That view reaches back to our own founding fathers and to the Constitution and to the classical idea of the Senate as existed in Roman times. This is our role and while we may, at times, be harried, I don't think we would be any less harried if we have twelve more because we will be increasing the bill productivity because the new people would not sit and be zeros.

My opposition stems from my basic understanding of what role the Senate does play.

Sen. S. SMITH: I rise in opposition. Sen. Jacobson said most of the things which I had in mind. I believe that one of the things that makes this Senate work with the twenty-four members is the committee structure which members of the Senate do have faith in. It may be true that we cannot read every bill, attend every hearing of each committee, and yet there are senators present. Even beyond that point, having each bill presented on the floor of the Senate gives each senator an opportunity for a further evaluation of the measure pending. Again, with more people, there are more bills, there are more factors to take into consideration. Sen. English, in the hearing, pointed out the factor of the physical aspect of this at the present time.

Question on motion to substitute "ought to pass" for the Committee Report, "inexpedient to legislate".

Division vote taken, the result being 7 Yeas, 14 Nays, the motion lost.

Question of "inexpedient to legislate". Resolution adopted.

CACR 18

Relating to: How Often the Legislature Shall Meet. Providing that: The Legislature Shall Meet Annually. Ought to pass with amendment. Sen. English for Judiciary.

Amend the caption of the resolution by striking out the same and inserting in place thereof the following:

CONCURRENT RESOLUTION PROPOSING CONSTITUTIONAL AMENDMENTS RELATING TO:

The Limitation of Payment of Mileage to Legislators
PROVIDING THAT: Legislators May Be Paid Mileage for Regular Sessions For No More Than Sixty Days In Any One Year And For No More Than Ninety Days In Any Biennium.

Amend the resolution by striking out article I.

Amend article II of the resolution by striking out the same and inserting in place thereof the following:

I. Resolved, That Article 15 (supp) as amended in 1960 of Part Second of the Constitution of New Hampshire be amended by striking out said article and inserting in place thereof the following:

[Art.] 15th. [Compensation of the Legislature.] The presiding officers of both houses of the Legislature shall severally receive out of the State Treasury as compensation in full for their services for the term elected the sum of two hundred and fifty dollars and all other members thereof, seasonably attending and not departing without license, the sum of two hundred dollars and each member shall receive mileage for actual daily attendance on not more than sixty legislative days during any calendar year and on not more than ninety legislative days during any term for which he is elected provided, however, that when a special session shall be called by the Governor or by two-thirds vote of the then qualified members of each branch of the General Court, such officers and members shall receive for

attendance an additional compensation of three dollars per day for a period not exceeding fifteen days and the usual mileage.

Nothing herein shall prevent the payment of additional mileage to members attending committee meetings or on other legislative business on nonlegislative days.

Amend the resolution by renumbering articles III and IV to read II and III respectively.

Amend article V by striking out the same and inserting in place thereof the following:

IV. Resolved, That the sense of the qualified voters shall be taken by ballot upon the following question submitted to them by the General Court:

Are you in favor of amending the Constitution to provide that each member of the Legislature shall receive mileage payments for attendance at regular sessions for no more than sixty legislative days in any one year and for no more than ninety legislative days during the two years for which he is elected?

Further amend the resolution by renumbering the articles VI and VII to read V and VI respectively.

Sen. ENGLISH: Mr. President, CACR 18 proposes that the Legislature meet annually. The amendment provides that mileage may be paid for regular sessions of no more than 60 days in any one year and for no more than ninety days in any biennium. What this means is that the Legislature, on the first year it meets, is limited to 60 days which would leave, of course, 30 days for the second session. It may, under the proposed amendment, meet less than the 60 days in the first year of the biennium, for example, 45 days. This would then leave 45 days for the second year in the biennium.

The proposal that the N. H. Legislature meet annually has been before the people a number of times in recent years. It passed overwhelmingly one time to be snagged up in court action. Last year it failed to obtain the required 2/3 by a scant 500 votes on a recount.

For more than 100 years the Legislature of New Hampshire met annually and so did other state Legislatures in the years prior to the 1870's. The widespread change from annual to biennial sessions of state lawmaking bodies came about as

a result of scandals arising from the period of rapid railroad expansion throughout the United States.

I do not want to dwell upon this period which is an exciting and dramatic one in American history. The degree to which state Legislatures including the New Hampshire State Legislature was dominated by railroad lobbyists is passed over in teaching our little children in school. There is even a book on New Hampshire which touches lightly and delicately on this period: the book is called "Coneston" which was written by the American writer, Winston Churchill. I say, "touched lightly", because it has never been considered good form in history books to describe in any detail the drunken orgies which existed in legislative halls.

At that period it became a well known gesture for a member of any legislature to stand up, address the Speaker, and with a strained voice, say "Mr. Speaker: my throat's dry." This was taken as a recognized symbol and the Speaker, who had a button by the side of his desk, thereupon would push it and immediately through the various entrances in the hall would appear waiters bearing trays of whiskey, gin, and champagne.

Where do my facts and figures come from? The Library of Congress. In a letter to me they wrote: "someone, somewhere, came up with the idea that if they met half as often, they would only be half as bad. Without any other known solution to the sovereign power of legislatures, this was adopted in all the then existing states, except Alabama and Georgia." These two went on a quadrennial basis. I am just dying, at some time, to dig into some of the literature in Georgia and Alabama of this period.

Forgotten scandals of a bygone age thus settled around our necks to plague us for close on to another 100 years.

Before I leave the historical basis for our problem, I would like to mention for the benefit of those who are concerned with American history, that the influence of this change from annual to biennial sessions distorted the whole course of American history. I will not go into this, but I would say that from this time on the built-in inefficiency of State Government made the centralizing of power in Washington inevitable.

Let me take only one aspect of the vital need for change back to annual sessions. This has to do with budgeting. As any

of you know making your own personal budget for one year requires skill and ingenuity. The same goes for business firms or any other type of organization which operates on a budget. Budgeting for a two year period becomes highly inaccurate and gives the Legislature, which historically under parliamentary theory is supposed to control the purse strings, largely without control. Any of you who have worked on the fiscal committees know instantly what I mean. Others may recognize the role which the Governor and Council must play in adjusting to some degree the inevitable inaccuracies. The money lapsed is a further indication of these inaccuracies.

Some years ago I offered to give \$25 to anyone who could find any organization — other than state legislatures — which budgeted for 2 years — There has been no takers.

Biennial sessions have been likened to weather forecasts which are reasonably accurate for 24 hours and for 48 hours drop to below 50% accuracy. In actual fact, budgeting in New Hampshire has to be done on what is much more nearly a 2 1/2 year basis because the various departments have to make up their budgets during the summer preceding the session in order to have them ready to bring before the Governor in December.

There are a host of other improvements which would inevitably follow in annual meetings of the Legislature. I think you know them as well as I do. One I will mention briefly. This one is having legislation current with the fast changing needs of the State.

By supporting this proposal not only here on the floor of the Senate but later with your constituents back home, hopefully we can win acceptance of this constitutional change and give the people of this State a new hope in their Legislature and better State Government.

Sen. MORRISSETTE: I suggested that we limit revenue bills to the first year with the objective of discouraging wild spending. What was the opinions of the Committee?

Sen. ENGLISH: It is difficult for me to relate the thinking of the members of the Committee, but I suspect that they felt that such a limitation would not increase our efficiency.

Sen. MORRISSETTE: I had suggested that we could probably have sessions limited to two a week to encourage a wide

representation from the population. Could that be taken care of in our rules in the future?

Sen. ENGLISH: In my opinion, it could be and probably should be taken care of in the legislative rules and thereby provide the advantage, which the senator has already spotted.

Sen. MORRISSETTE: Regarding holding a percentage of the public hearings at night or Saturdays — how did the Committee regard that?

Sen. ENGLISH: The Constitution, is the basic framework for operation. The details can be filled in later.

Sen. TOWNSEND: Sen. English, are you aware of the fact that if CACR 19 had been adopted ten years ago, we would now be in annual session?

Sen. ENGLISH: That is quite possible.
Amendment Adopted.

Division vote taken, the result being 22 Yeas, 0 Nays, CACR 18 ordered to third reading.

Sen. S. Smith in the Chair.

HB 345

to increase the permissible maximum dollar limit of certain force account contracts. Ought to pass. Sen Poulsen for Public Works and Transportation.

Sen. POULSEN: Mr. President, HB 345, was introduced at the request of the Fish and Game Department and the Department of Parks in that they do a certain amount of their jobs under the force account system. The law gave them a maximum of \$50,000 which is too low for jobs nowadays, according to the Department of Public Works. \$75,000 is closer to it and rather than have to come back in and have a short time to raise it, they requested \$100,000. We recommend passage of this bill.

Adopted. Ordered to third reading.

PARLIAMENTARY INQUIRY

Sen. MORRISSETTE: What is the status of my resolution on Lt. Calley?

Sen. BRADSHAW: We intend to get the Committee on Rules and Resolutions together. If it hadn't been for some un-

expected problem, it would have been this morning. We are now aiming for Tuesday or Wednesday of next week.

HB 67

providing for Port Authority appointed pilots to pilot certain vessels in the Piscataqua River and harbor. Ought to pass. Sen. Poulsen for Public Works and Transportation.

Sen. FERDINANDO: Mr. President, HB 67 requires boats or vessels in excess of 150 tons to be piloted by a pilot appointed by the Port Authority. Mainly, limiting these vessels on the Piscataqua River and harbor. The Committee felt that in the interest and safety of the people of New Hampshire, that the safety aspects involving this bill were just in the best interest and it should pass.

Sen. FOLEY: I rise in support of the passage of HB 67.
Adopted. Ordered to third reading.

SB 67

to permit a licensee forty-eight hours to present license and registration to law enforcement officials after a lawful request therefor. Ought to pass with amendment. Sen. Lamontagne for Public Works and Transportation.

Amend the bill by striking all after the enacting clause and inserting in place thereof the following:

1 Grace Period. Amend RSA 261 by inserting after section 23 the following new section: 261:23-a Examination of Certificates and Licenses. No person charged with a violation of Section 261:23 shall be convicted if, within a period of forty-eight hours, he produces in the office of the arresting officer evidence that he held a valid license and/or registration which was in effect at the time of his arrest.

2. Effective Date. This act shall take effect after its passage.

Sen. LAMONTAGNE: Mr. President, SB 67 has been amended. I was appointed to the sub-committee to meet with Kenneth Lewis of the Motor Vehicle Department. The original bill was not what I had intended, therefore, after meeting with Mr. Lewis, we came to an agreement on the amendment which was taken out of the National Code.

(Read amendment)

Several times, a person has been arrested because they did not have their license or registration on them. How many times have you left your wallet at home and didn't have your license on you? When a person is arrested, they receive a charge against them and upon your next violation, you find yourself in grave difficulty. The only thing that this amendment does is to allow a person forty-eight hours to produce his papers.

Amendment Adopted. Ordered to third reading.

SUSPENSION OF RULES

Sen. POULSEN: Mr. President, I move the rules of the Senate be so far suspended as to dispense with the two day notice for public hearing on SB 125. Inadvertently, the public notice was only one day rather than two in the *Calendar* and because of that, we are asking for suspension of the rules so it may be reported at this time.

Adopted.

SB 125

to repeal certain statutes relative to the width of rims of wagon wheels and to chaining wheels on hills. Ought to pass. Sen. Ferdinando for Public Works and Transportation.

Sen. POULSEN: SB 125 was put in to get rid of some old RSA's. The particular RSA's in question governs the width of the tire on a wagon wheel. Actually, as the law is written, any wagon built to carry more than between two tons and four tons must have a five inch tire. Between four and six tons weight, it must have a five inch tire and over six tons, must have a six inch tire. This has absolutely no bearing on wagons as we know them today and is not necessary and the Committee feels that it would be to the advantage of everyone to have this RSA repealed.

Sen. LAMONTAGNE: Sen. Poulsen, does not this bill also require that they have to tie up chains and slide down the hill?

Sen. POULSEN: That is true. It prohibits the use of a chain in down-hill travel because of the damage it does to roads, but that is no problem today.

Adopted. Ordered to third reading.

Sen. Bradshaw in the Chair.

HB 64

empowering the Pesticides Control Board to prohibit or restrict the sale and use of certain pesticides. Ought to pass. Sen. Snell for Resources and Environmental Control.

Sen. SNELL: The purpose of HB 64 was to amend the Pesticides Control Law 149-D so as to grant the Pesticides Control Board the authority to prohibit or restrict the use of certain pesticides in the State of New Hampshire through regulations that will apply to all users of pesticides. I want you to remember the term, "all users." The present law provides the authority for the Board to restrict or prohibit the use of certain pesticides by commercial applicators who must be registered, such as farmers, foresters, municipalities, and others who fall into this category. They must obtain permits for these pesticides. At the present time, homeowners are exempt from this regulation. However, with the new type of pesticides on our market today, the testimony at the hearing indicated that this is in the best interest of our state and would give effective control over all pesticides so that we can improve the problem of exempting the homeowner. I hope you will see fit to pass this legislation.

Adopted. Ordered to third reading.

Sen. S. SMITH: I move that HB 318 be taken from the table. This is the bill which was dealt with earlier in relation to the Town of Gorham. I would hope that the Senate would go along with the motion.

Adopted.

Sen. S. SMITH: Mr. President, I move that HB 318 be amended to include the following:

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 New Section. Amend chapter 188, Laws of 1905, as amended by chapter 338, Laws of 1917, and amended by chapter 293, Laws of 1919, by inserting after section 6 the following new section: 6-A. Notwithstanding the borrowing limitations set forth in the preceding section, the said town shall have all the authority to incur debt for water and sewer purposes which is granted to municipalities under RSA 33.

Amendment adopted. Ordered to third reading.

Sen. JACOBSON: I move that HB 242, which has been recalled from the Governor, be put on second reading at the present time.

Adopted.

HB 242, providing that the reregistration of voters be postponed until 1973 and establishing a committee to study and report of the form of checklists.

Sen. JACOBSON: I move that HB 242 be recommitted to the Committee on Executive Departments.

Adopted.

ENROLLED BILLS REPORT

HB 246, authorizing the use of breath tests to determine the percentage of alcohol in the bloodstream of motor vehicle operators. Ought to pass with amendment. Sen. English for Committee.

Amend section 1 of the bill by striking out lines two through five and inserting in place thereof the following:

and amended by 1969, 119:2 by striking out said section and inserting in place thereof the following:

Adopted.

FURTHER HOUSE MESSAGE ENROLLED BILLS AMENDMENT

HB 246, authorizing the use of breath tests to determine the percentage of alcohol in the bloodstream of motor vehicle operators.

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until Tuesday next at 1 o'clock.

Adopted.

LATE SESSION

Third reading and final passage.

HB 231, requiring that the articles of agreement of voluntary corporations and associations provide for the disposition of the assets of such corporations upon their dissolution.

HB 194, relative to payment of vacation wages.

HB 82, relative to the expenditure of funds in urban renewal programs.

HB 292, conveying a certain portion of land which was formerly part of Silver Lake in the Town of Madison to J. Donald Hayes and Dorothy V. Hayes.

Sen. LAMONTAGNE: I move reconsideration on HB 292.
Motion Lost.

CACR 18, Relating to: How often the Legislature shall meet. Providing that: The Legislature shall meet annually.

Division vote: 18 Yeas, 0 Nays.
Adopted.

Sen. SPANOS: I move reconsideration on CACR 18.
Motion lost.

HB 345, to increase the permissible maximum dollar limit of certain force account contracts.

HB 67, providing for Port Authority appointed pilots to pilot certain vessels in the Piscataqua River and Harbor.

SB 67, to permit a licensee forty-eight hours to present license and registration to law enforcement officials after a lawful request therefor.

SB 125, to repeal certain statutes relative to the width of rims of wagon wheels and to chaining on hills.

HB 64, empowering the Pesticides Control Board to prohibit or restrict the sale and use of certain pesticides.

HB 318, relating to the Town of Gorham.
Adopted.

Sen. Porter moved the Senate adjourn at 3:28 o'clock.
Adopted.

Tuesday
13Apr71

The Senate met at 1 o'clock in Joint Convention.

A quorum was present.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 161, increasing the penalties for throwing trash on highways or highway right-of-ways. (Jacobson of Dist. 7 — To Resources and Environmental Control.)

SB 162, relative to interest and service charges on overdue accounts. (Jacobson of Dist. 7 — To Banks, Insurance and Claims.)

SB 163, prohibiting dumping materials from out-of-state. (Tufts of Dist. 23 — To Resources and Environmental Control.)

SB 164, relative to license for sale of real estate where there are unknown heirs, or heirs under disability, or heirs whose whereabouts are unknown. (Nixon of Dist. 9 — To Judiciary.)

SB 165, relative to recreational roads. (English of Dist. 11 — To Public Works and Transportation.)

SB 166, amending the 1969 appropriation relative to capital expenditures at Franconia Notch State Park. (Tufts of Dist. 23 — To Finance.)

SB 167, relative to monthly payment of local taxes by certain taxpayers. (Morrissette of Dist. 16 — To Executive Departments, Municipal and County Governments.)

SB 168, relative to citizens rights to be heard at municipal budget hearings. (Morrissette of Dist. 16 — To Executive Departments, Municipal and County Governments.)

SB 169, relative to the special elections of a mayor. (Morrissette of Dist. 16 — To Executive Departments, Municipal and County Governments.)

SB 170, relative to disposal by auction sale of certain surplus municipal property. (Morrissette of Dist. 16 — To Executive Departments, Municipal and County Governments.)

COMMITTEE REPORTS

SB 10

making appropriations for dual enrollment and child benefit service grants for the fiscal years 1972 and 1973. Ought to pass. Sen. Jacobson for Education.

Sen. JACOBSON: SB 10 deals with the proposed appropriation to fund a dual enrollment program as they relate to parochial schools. This was introduced by Sen. Morrissette and it generally accords with the recommendation of the Non-Public School Commission. Therefore, the Committee on Education recommends its passage and that it be sent to the Finance Committee.

Sen. MORRISSETTE: I rise in favor of SB 10. This would save the taxpayers of our state and the quality of education for our children. \$2 or 3 million invested in the next year or two will mean \$10, 15, or 20 million saved to the state in the future. Some people have criticized the fact that the nuns get paid as much as \$2400 a year and I would like to explain the reason for this; they have no social security or old age and they have to take care of those teachers who have given up their lives. This comes along the line of medical expenses and old age expenses. We must come to their aid.

Many people in the House were opposed to this because they felt the appropriation should go, for example, to additional foundation aid. I assured them that if they permitted the closing of these schools, that we would qualify for foundation aid and therefore the towns would receive even less than they are receiving now.

I would like to emphasize that to cut down the amount would be similar to having a car with only three wheels. If you don't have the complete program, you will be depriving or closing down the school. In my district, we take care of 2391 children, saving the taxpayers over \$2 million a year. The time element is important so that they may build their classrooms so I hope we would expedite this bill.

Sen. PORTER: Sen. Morrissette, how did you arrive at the \$3.6 million figure for the requirement for continued aid?

Sen. MORRISSETTE: These figures are prepared. I met with the Board of Education and Chancellory and they came up with the figures. Their programs are waiting.

Sen. PORTER: Is \$3.6 million enough to do the job as it should be done?

Sen. MORRISSETTE: Yes. I believe that this will be sufficient.

Sen. PORTER: Do you have a knowledge of how many schools, other than parochial, have applied and received aid?

Sen. MORRISSETTE: No, I have no knowledge of this, but as you know, the parochial schools are the most numerous.

Under the rules, SB 10 referred to Finance.

Sen. Nixon in the Chair.

SB 44

relative to the time the school census shall be taken and repealing the statute dealing with school boards visits to schools. Ought to pass with amendment. Sen. Downing for Education.

AMENDMENT

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Dates for School Census. Amend RSA 189:38 by striking out in line six the word and numeral "September 10" and inserting in place thereof the words (September thirtieth); and by striking out in line seven the word and numeral "October 1" and inserting in place thereof the words (October thirty-first) so that said section as amended shall read as follows: 189:38 Enumeration of Children. Agents appointed by school boards of school districts shall annually make an enumeration of the children of each sex from birth through eighteen years of age in each school district as of September first giving such items in regard to each child as may be required by the state board of education, and shall make a report thereof to the school board by September thirtieth. The school board shall make a report

on the enumeration of children by October thirty-first to the state board of education.

2 Board Shall Furnish Registers. Amend RSA 189:27 (supp) as amended by 1967, 448:2 by striking out said section and inserting in place thereof the following: 189:27 Register. The school board shall furnish to the responsible person a supply of blank registers provided by the state board.

3 Effective Date. This act shall take effect sixty days after its passage.

Sen. DOWNING: Mr. President, SB 44 merely changes the dates of census taking and when the result will be reported to the local school board and the State Department of Education. Presently, it seems that more and more school districts are requiring exceptions to the current requirement and this would be more in tune with the actual requirement of taking a census today. I urge the Senate to accept the committee report.

Amendment adopted. Ordered to third reading.

SB 80

providing veterinary medical education at Ohio State University for New Hampshire residents and making an appropriation therefor. Ought to pass. Sen. English for Education.

Sen. ENGLISH: Mr. President, SB 80, provides a procedure whereby certain New Hampshire students could further their education in veterinary medicine. It appears that Ohio State University is willing to permit enrollment of no more than 5 qualified students. There is a modest appropriation on this bill of \$3,600.00 for 1972, and \$12,600.00 for 1973. It must therefore go to the finance committee under the rules.

Referred to Committee on Finance.

HB 446

relative to the membership of school boards in certain school districts. Ought to pass. Sen. English for Education.

Sen. DOWNING: Mr. President, HB 446 will enable any school district to select the size of its school board, be it three, five, seven, or nine members. Currently, only a school district which also has a high school can have more than three members on its board. This bill would enable *any* school district, at a public school district meeting, to have three, five, seven or nine

members and allows also, for the increase and decrease of the board. I urge the acceptance of the committee report.

Adopted. Ordered to third reading.

SB 79

creating a legislative commission to study and make recommendations relative to the expenditure of state funds for higher education and making an appropriation therefor. Ought to pass. Sen. English for Education.

Sen. ENGLISH: Mr. President, SB 79 would set up a Legislative group to study higher education in N. H. It is similar to bills which passed the Senate in 1967 and 1969 which foundered from lack of funds. This proposal by Sen. Jacobson requires no appropriation. There is another bill HB 337, introduced by James O'Neil in the House with somewhat the same object, both have distinct merit.

SB 79 deals with a subject which hovers in the background in many Bills we will consider during the current session, including the State budget. Higher education in the State of N. H. involves the expenditure of huge sums of money. All of us here in the Senate, on behalf of those we represent, are concerned that we secure the best possible education. Also that it be done with consideration of its suitability to our times — our period of history — as well as economically.

We are not in a position to know much about the conduct of our higher education unless we study it. When I say study it, I don't mean accepting without careful thought evaluations furnished us by the people who like the way it is . . . and have ready facts and figures to prove it.

The Bill will not be of very great interest to anyone who feels wholeheartedly that in order to have near perfect education in N. H. all that is needed is more and more money.

SB 79, moreover, raises an important question. Do we have "Public Education" in N. H. or "Educators' Education." If the former, the representatives of the public at the State level should do more than accept unquestioningly the views of the professionals.

With hesitancy the issue is raised. We all know that to question the professional administrators of higher education is almost unthinkable. Questioning, however, doesn't mean being

critical. It just means that the representatives of the people would like to look at the whole picture from the public's point of view.

This study just possibly could be helpful to those administrators, and there are many, who are sincerely concerned with the higher education of our children for the 1970s and beyond.

It could be especially helpful to those few who feel that only an elite, especially trained alone are capable of grasping the true import of education. I feel confident that better relations between the Legislature and the ivy mantled, hallowed halls of learning would ensue as a result of your support of SB 79.

We have in this Senate unusually capable Senators. Some have advanced academic degrees, some none at all. Each and every one of us have lived and been close to the end product of the higher education system. Above all we love our children and want to see them equipped to play a useful role in our communities, our State and Nation. We are concerned that they be well integrated in order to lead happy and productive lives.

The pursuit of happiness — a part of our Constitution — is importantly involved.

Let me quote some authorities — first the President of the USA, Richard Nixon in a message to the Congress dated 3 Mar 70 — “Our Education is in urgent need of reform.” That's the opening paragraph. A second paragraph reads as follows:

“A nation justly proud of the dedicated efforts of its millions of teachers and educators must join them in a searching re-examination of our entire approach to learning.”

Note particularly the words — “join them.”

Now let me quote Charles F. Kittering, industrialist — “It's amazing what ordinary people can do if they set out without preconceived notions.”

Now from a report written by Dwight R. Ladd, professor of business at UNH entitled “Change in Educational Policy.” He finds — “Careful examination of the evidence indicates that the dissatisfaction cannot be realistically attributed merely to Vietnam and the racial crisis. There are basic educational issues underlying the students' grievances.”

He mentions some matters which could be examined:

1. Faculty time and interests are scattered and divided between professor's scholarly pursuits, consulting and outside professional and political activities and teaching.

2. Dr. Ladd sees classes of 100 students desirable and vastly less costly.

He goes on with many interesting observations — but I quote him only briefly despite his UNH connection — because there are others to be mentioned.

Elliot L. Richardson, Secretary of Health, Education and Welfare, recently issued a critique of higher education prepared by his Department which was highly critical and which made significant proposals. Some of them were:

1. New educational enterprises to break away from the classroom lecture-reading format that now prevails.

2. Admission standards permitting students to drop in and out of college more easily.

3. Expanding opportunities for higher education off campus.

4. Reverse the trend toward massive centralized State systems.

5. Expanding internship and apprenticeship programs.

6. Permitting practitioners — they're people with ability but no special degrees — who are outstanding on their particular job — to engage in teaching.

There were still more interesting proposals presented which a Legislative group could discuss. Incidentally, the chairman of this group was Frank Newman, selected by Robert H. Finch, Secretary of HEW under President Johnson.

Let me make one more quote from this official report.

“American colleges discriminate against those who are older than ‘normal student age’ and whose established life and work patterns make returning to a campus difficult if not impossible.”

Allow me a couple of other quotes just to emphasize the need for the N. H. Legislature to concern itself with a matter

of the greatest importance moneywise, but more importantly, peoplewise.

Joseph Moriarty, N. H. Labor leader, on 22 Oct 70 was reported as saying "There is no respect for the college graduate among labor people."

TIME Magazine 24 Aug 70 — "education is virtually unaccountable when it fails its customers."

US NEWS AND WORLD REPORT says "a strong challenge to the authority of educators to run the nation's schools with a free hand is developing."

Dr. Dennis M. Jurczak, U. S. Navy, said "Manhood, not scholarship is the aim of education."

You have probably heard of Charles E. Silberman's recent caustic report on education which uses phrases such as "mutilation of spontaneity . . . destruction of joy in learning . . . the irrelevant training of teachers." It's perhaps extreme but suggests a need for such a study as is proposed.

Let me conclude in saying that in the 20 odd years I have been working with educators here in N. H. I have been favorably impressed with them and, in general, higher education in our State. They could, nevertheless, benefit from your knowledge of the work-a-day world.

I do not visualize the Legislative group this Bill would set up as being hostile. I have long advocated that those of us who have lived quite a bit and are sincerely concerned — and properly so — could help the professional whose greater specialized skills could be enhanced by the likes of us.

SB 79 suggests a small step toward "Public Education" as differentiated from "Educators' Education."

Sen. JACOBSON: I rise in support of SB 79 because I believe that there is a demonstrable need for such a study especially in light of sky-rocketing costs. The principal question which this bill addresses itself to is how well is the public dollar being spent in higher education. The usual response of professional educators is that more public money is needed in order to maintain the level of "quality" education. The concept of "quality" is, however, either rarely or most vaguely defined. Indeed, the usual concretization of the "Quality" demand most

commonly expresses itself as quantification. My candid opinion is that there is no necessary connection between "quality" and "quantity"; indeed, there is a considerably body of evidence that quantity may well reduce quality. Furthermore, education, like other professions, suffers from the bind of its own professional traditions and its predominately conservative vested interest, and hence, it's often incapable of seeking its own reform.

Indeed, according to a *NY Times* article: "Faculty members themselves are no longer sure what kind of general education might serve a free society."

New Hampshire invests more than \$100 million in education, but as a headline in the *Concord Monitor* editorial for February 10, 1970 stated "School taxpayers (are) investing blindly." The basic motivation behind this legislation is to increase legislative understanding of public higher education.

According to the Carnegie Foundation no significant reform has taken place in higher education for 83 years. In this connection, I would want to suggest a few areas that need attention. We need to know what type of student will benefit most from what type of education. President Brewster of Yale recently stated that there are too many unwilling students on our campuses. At our own University the present dropout rate ranges from 40 to 50%.

The professional educators argue that their dropouts do get some benefits even so, but I would respond that the better solution would more possibly lie in an area of another type of education.

On another point, there is a growing recognition that our present system of a 4-year college plan is far outdated, especially in the light of vast changes in high school curriculum and the wider opportunities for general education as per TV.

Clark Kerr, Chairman of the Carnegie Foundation Commission on Higher Education argues persuasively that "too much time is being spent by young people in higher education." The Commission's suggestion is there be established 3-year colleges. The Commission's estimate that \$3 to \$3.5 would be saved in public expenditures without loss of quality education.

We need to investigate fully our graduate school programs, the most expensive per student area in higher education. Most

graduate programs produce PHDs for higher education. At the present rate, we will soon be producing 57,000 PHDs per annum but the demand for PHDs will only be 26,000. I don't believe that public money ought to be spent to create an over supply. In more local terms, I believe careful investigation should be made into present 25% non-resident factor. The argument for this has always been that there is a need for a demographic mix for better education purposes. Actually the movement of population nationally is sufficient for any reasonable population mix so that reason seems no longer to be of moment. The real reason for desiring this mix is to provide professors in graduate school programs a national choice in students and to enhance their own research through these means. At the present, 504 are residents and 410 non-residents, or 44% of our graduate students are from out-of-state. Questions must be raised as to whether public money should be spent in this direction.

Finally — I believe the tuition question should be carefully studied. The argument to keep tuition costs down steams from the motion that all should have equal opportunity to higher education. However, it doesn't work. Indeed, I am of opinion that a different scheme ought to be used, such as the sliding scale based on the ability to pay. Under such a system, some would pay nothing others would pay a full tuition.

Many other areas need study, and I am hopeful that this Commission may be established for I believe this would be in the public interest.

In reference to the May 1 date, it stemmed from SB 29 which was sponsored by Sen. Spanos as it came out of the Finance Committee in the 1969 session in order to get the Non-Public School Commission on the ball. The only thing we did on May 1 is that we reported that we have organized, appointed a chairman, vice-chairman and secretary. After the 1969 session, I was appointed to two or three commissions and I never heard a thing. It went way down to October and November and finally I went down and voiced that we had established legislation for the commission and nothing is happening. Finally, Henry Good called the commission.

Sen. PORTER: At what point do you expect to have the final draft of the report?

Sen. JACOBSON: I am hopeful that it would be for the

1973 session, or if there should be a Special Session, that it could be brought in at that time.

Sen. KOROMILAS: Has any thought been given to expanding the frame of reference to include education lower than higher education?

Sen. JACOBSON: Senator, I have another bill which would do that.

Sen. MORRISSETTE: I rise in favor of SB 79. My children could not have reached their aspirations if it hadn't been for higher education. We should do all we are capable of doing to improve the quality of our schools on all levels. I want to compliment the Education Committee for their recommendation.

Sen. PORTER: Sen. Jacobson, would it be possible to consider including in the study investigations into Merrimack Valley Branch of the UNH and look at the aspects of cost, tuition, live-at-home expenses and those relationships?

Sen. JACOBSON: I am hopeful that that would be included. One of the savings of a stay-at-home university is the savings in capital investment factor and the operating costs that go with that investment factor. We might also look into the area that Governor Sargeant has proposed; the university without walls. We have gone on this medieval tradition that in order to have a university, we have got to have a wall but that is not necessarily so.

Adopted. Referred to Finance.

SUSPENSION OF RULES

Sen. BRADSHAW: Mr. President, I move that the rules of the Senate be so far suspended as to allow the introduction of a Committee Report not previously advertised in the *Journal*. The report that we would like to submit deals with a resolution that was submitted by the House dealing with not having a session of the Legislature on Town Meeting Day. We do not need a bill to allow us not to meet on that day, consequently, it was the feeling of the Senate Rules and Resolutions Committee that this bill served no purpose and there was no sense in going through the expense of processing the bill. Therefore, I am asking for suspension of the rules so that we may introduce this

with the recommendation, "inexpedient to legislate" so that we may get it out of the paper shuffle and make the paper work a little easier for the clerks.

Adopted.

HCR 14

pertaining to Town Meeting Day. Inexpedient to legislate.
Adopted.

Sen. Bradshaw in the Chair.

HB 110

relative to the conduct of voting at town and village district meetings and school districts within said town and relative to the authority of school district moderators. Ought to pass with amendment, Sen. Jacobson for Executive.

AMENDMENT

Amend the title of the bill by inserting at the end thereof the words (and relative to the authority of school district moderators.) so that said title as amended shall read as follows:

AN ACT

relative to the conduct of voting at town and village district meetings and school districts within said town and relative to the authority of school district moderators.

Amend section 1 of the bill by striking out RSA 40:4-a and renumbering RSA 40:4-b and 40:4-c to read 40:4-a and 40:4-b respectively.

Amend newly numbered RSA 40:4-b by striking out in line three the words "in writing" so that said section as amended shall read as follows:

40:4-b Questioning a Vote. When any vote, other than by ballot, declared by the moderator or other officer presiding shall, immediately and before any other business is begun, be questioned by seven or more of the voters present, the moderator or other officer presiding shall retake the vote by secret "yes-no" ballot.

Amend the bill by striking out section 5 and inserting in place thereof the following:

5 Powers and Duties of Moderator. Amend RSA 197:19 by inserting in line three after the word "order," the following (and in the conduct of a school district meeting, all the statutory duties, powers and authority granted to town moderators.) so that said section as amended shall read as follows: 197:19 Moderator. The moderator shall have the like power and duty as a moderator of a town meeting to conduct the business and to preserve order, and in the conduct of a school district meeting, all the statutory duties, powers and authority granted to town moderators, and may administer oaths to district officers and in the district business. In case of a vacancy or absence a moderator pro tempore may be chosen.

6 Effective Date. This act shall take effect upon its passage.

Sen. JACOBSON: Mr. President, HB 110 was introduced to correct what has been developing, to some degree, in town meetings, but to a greater degree in school district meetings, especially regional school district meetings. That is the desire of the public to have ballot votes on critical issues. As the statutes presently stand, the moderator of a school district or town has the authority to prescribe the rules of procedure and these rules of procedure, which according to several court cases which date back to 1842 have a great deal of elasticity, and so that the moderator is not bound to any strict set of rules. The only matter that circumscribes him is that whatever his ruling may be, it may be overturned by a majority vote of the meeting. This has led to a problem with respect to the calling for ballot votes.

What HB 110 sets is that in a town of more than 500, five voters, in writing, present, before a vote is taken, to the moderator, he must then take the vote by ballot. If it is a town of less than 500, three such voters are required in writing. That is essentially what the bill does. The bill came in with a feature which stated that the moderator shall take votes by voice vote if it has not been presented in writing. The Committee felt that this was far too restrictive on the moderator and if he should want to choose to take a ballot, division, or voice, he should have that liberty.

The Senate amendment strikes that portion out and also rewrote that portion of the statute, Chapter 40:5 which says that after any vote has been declared by the moderator, seven

or more voters may then call for confirmation by a poll of the voters. The House said that that request had to be in writing but the Senate Committee felt that that was an awkward kind of relationship and that it could simply take seven hands raised for the poll. We took out the words, "in writing." The final part of the Senate amendment is to join the town statutes in a more clear way with the moderator's role in school district meetings so that it very clearly states in Chapter 197:16 where the moderator's duties in school district meetings is laid down, that the moderator shall have the same powers and duties as the statutes provide.

Amendment adopted. Ordered to third reading.

SB 63

providing that experts involved in tests under implied consent statute are not required for court testimony unless prior notice is given. Ought to pass with amendment. Sen. Leonard for Judiciary.

AMENDMENT

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1. Official Record or Conclusive Evidence. Amend RSA 262-A by inserting after section 69-j the following new section: 262-A:69-k Official Record of Test. Any person, who is arraigned on a charge arising under RSA 262-A:69-a shall file notice in said court within five days immediately following the receipt by said person of the results of any blood alcohol test administered to him requiring the attendance of the person who took the sample for said test or of the person who conducted said test, or both. Failure to file notice shall be deemed a waiver to require their attendance at the trial, and the official report of said test issued pursuant to RSA 262-A:69-a shall be deemed conclusive evidence of the conduct and results of said test.

2 Effective Date. This act shall take effect sixty days after its passage.

Sen. NIXON: Mr. President, the present law provides that in the case of a person arrested on the suspicion of driving while under the influence of intoxicating beverages and a blood test is taken of that person, the trial of that person must be delayed unless and until the technician from the State Laboratory,

who did the testing of the blood sample, can personally be present to testify with respect to her or his findings. The purpose of SB 63 is to do away with the requirement of personal attendance, which has been found to be a burden on both the prosecution and the defense in terms of trying to get these cases scheduled for trial, and the disposition thereof expedited.

Thus SB 63 as amended by your Senate Judiciary Committee, will provide that a person who is arraigned on the charge of DWI, shall have five days following the receipt by that person of the results of the test to notify the court that he or she wants the personal testimony of the tester. Otherwise, the personal testimony is waived. It was felt that this bill would benefit both the prosecution and the defense and expedite the disposition of these matters in the courts.

Amendment adopted. Ordered to third reading.

SB 70

to provide employees with a priority of claim for wages earned. Ought to pass with amendment. Sen. Koromilas for Judiciary.

AMENDMENT

Proposed by Senate Judiciary Committee

Amend RSA 568:31, I as inserted by section 1 of the bill by striking out the same and inserting in place thereof the following:

I. Wages due an employee, not exceeding two weeks pay. For the purposes of this paragraph, the term employee shall include any person suffered or permitted to work by an employer.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Employees Priority Among Conflicting Security Interests in the Same Collateral. Amend RSA 382-A:9-312 by inserting at the end thereof the following new paragraph: (7) Notwithstanding the foregoing provisions or any other provision of this chapter, the unpaid wages of an employee shall have priority over any security interest in any collateral, except that such priority shall not apply to wages exceeding two weeks pay. For

the purposes of this paragraph, the term employee shall include any person suffered or permitted to work by an employer.

Sen. KOROMILAS: Mr. President, the amendment merely changes the words "one pay period" to "two weeks."

Sen. MORRISSETTE: How would it work out if you had a written agreement with an employee to advance him the money; would that have priority or would you lose that priority?

Sen. KOROMILAS: This is advance payment prior to labor?

Sen. MORRISSETTE: It is a common practice in small business that employees ask for loans and to conform with the Wage and Hour Law, they have to sign authorization to remove the money from their pay. Will this change this set-up?

Sen. KOROMILAS: The employee, in that particular case, has been paid. I don't think this bill touches on that.

Amendment adopted.

Sen. KOROMILAS: This bill was introduced by me at the request of the Labor Commissioner. It appears that you have, when a company has gone insolvent and there are no funds available, then the laborers have no money to receive, even though they performed their work. This bill would give the labor two weeks to pay if the company goes insolvent. It gives the wage earner priority over debts to the U. S. and taxes. You give the laborer two weeks pay if the employer has gone under. It does not apply to bankruptcy situations. The fundamental change is this: the laborer has first crack at any funds that may be in the hands of the insolvent company prior to any secured interests made on the property or person.

Ordered to third reading.

HB 164

to allow discovery in criminal matters prior to indictment. Ought to pass with amendment. Sen. Leonard for Judiciary.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

to allow discovery in criminal matters prior to indictment and relative to probable cause hearings.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Probable Cause Hearings. Amend RSA 596-A (supp) as inserted by 1965, 116:1 by inserting after section 7 the following new section: 596-A:8 Scheduled Preliminary Hearing. When a preliminary hearing for probable cause has been scheduled by the court, the grand jury shall not be presented that same case until the court has first made its decision, as to whether probable cause exists, or has made a determination that the accused has escaped from the court's jurisdiction.

3 Effective Date. This act shall take effect sixty days after its passage.

Sen. NIXON: Mr. President, HB 164 was introduced by Rep. Bradley and in original form, provided for permitting an accused person, after he had been bound over to Superior Court but prior to indictment, the right to engage in discovery procedures such as taking testimony under oath and having it transcribed which had not previously been recognized because of a 1906 decision of the N.H. Supreme Court. The bill, in original form, was drafted by Rep. Bradley with the concurrence and assistance of Assistant Attorney General David Souter and other representatives of the Attorney General's Office. It was felt that the passage of the bill would expedite the disposition process in regard to felonies.

The Senate Judiciary Committee amended the bill by adding a second section relating to probable cause hearings. The amendment would provide that any person who was charged with a felony would have the right to a preliminary determination of his probable guilt in a probable cause hearing in the District Court having jurisdiction prior to the question of his guilt or innocence being presented to the Grand Jury in connection with indictment proceedings. In the case of a felony, the District Court's jurisdiction is restricted to the initial question; did he probably do it? That having been determined in the affirmative, he is then bound over to the Superior Court and the issue is then presented to a Grand Jury which either indicts or returns a "no bill." The amendment is identical to the language of

SB 23, which passed this body several weeks ago but was then killed in the House. The amendment would provide that the probable cause hearing entitlement would pertain to every person charged with a felony; he would have the right to this preliminary determination of his probable *before* his case could be submitted to the Grand Jury.

Amendment Adopted. Ordered to third reading.

HB 298

to provide for recording of short form leases. Ought to pass. Sen. Downing for Judiciary.

Sen. DOWNING: Mr. President, HB 298 makes a provision for the recording of short form leases. The statute, at the present time, requires that leases of seven years duration or longer must be recorded, at length, at the Registry of Deeds. This has come to be rather unreasonable to use this very long form, at length. All this bill would do is to provide that a lease may be recorded in short form giving the particulars and protection to any concerned party.

Adopted. Ordered to third reading.

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock in honor of Lt. John Lawrence Hogan, U.S. Army, of Exeter who was recently killed in Viet Nam.

Adopted.

LATE SESSION

Third reading and final passage

SB 44, relative to the time the school census shall be taken and repealing the statute dealing with school boards visits to schools.

HB 446, relative to the membership of school boards in certain school districts.

HB 110, relative to the conduct of voting at town and village district meetings and school districts within said town and relative to the authority of school district moderators.

SB 63, providing that experts involved in tests under implied consent statute are not required for court testimony unless prior notice is given.

SB 70, to provide employees with a priority of claim for wages earned.

HB 164, to allow discovery in criminal matters prior to indictment and relative to probable cause hearings.

HB 298, to provide for recording of short form leases.
Adopted.

Sen. Snell moved the Senate adjourn at 2:32 o'clock.
Adopted.

Wednesday
14Apr71

The Senate met at 1 o'clock in Joint Convention.

A quorum was present.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 171, relative to Sunday dancing in hotels and certain restaurants. (Smith of Dist. 3 — To Executive Departments, Municipal and County Governments.)

SB 172, relative to the judicial process. (Nixon of Dist. 9 — To Judiciary.)

HOUSE MESSAGES

First, second reading and referral

HB 94, appropriating funds to assist the Lebanon Regional Airport Authority. (Finance)

HB 251, providing that the provisions of the Constitution of New Hampshire shall establish the age for voters. (Executive Departments, Municipal and County Governments)

HB 312, enacting the fair credit reporting act. (Judiciary)

HB 494, relative to tax exemptions for water and air pollution control facilities. (Resources and Environmental Control)

HB 550, providing copies of the Revised Statutes Annotated for attorneys in the office of Attorney General (Executive Departments, Municipal and County Governments)

HB 272, requiring fishways to be built on certain dams. (Recreation and Development)

HB 547, relative to publication of political contributions and expenditures. (Executive Departments, Municipal and County Governments)

HB 500, relative to the highway operation of farm vehicles. (Public Works and Transportation)

HB 451, establishing a commission to study and make legislative recommendations concerning the regulations and licensing requirements which apply to halfway houses. (Public Health, Welfare and State Institutions)

HOUSE CONCURRENCE ON HOUSE BILLS WITH AMENDMENTS

HB 292, conveying a certain portion of land which was formerly part of Silver Lake in the Town of Madison to J. Donald Hayes and Dorothy V. Hayes.

HB 318, relating to the Town of Gorham.

COMMITTEE REPORTS

HB 224

relative to number of ballots to be printed for primary elections. Ought to pass with amendment. Sen. S. Smith for Executive.

AMENDMENT

Amend the bill by striking out Section 1 and inserting in place thereof the following:

1 Ballots to be Printed. Amend RSA 56 by inserting after section 32 the following new section 56:32-a Number for New Party. For the first primary election at which a political party has candidates for nomination the Secretary of State shall print for said party a sufficient number of ballots which in his sole discretion shall most closely approximate the figures provided for in RSA 56:32.

Sen. S. SMITH: Mr. President, after consideration of this bill, the Committee felt that it should be brought in as "ought to pass." The amendment is a slight one to clarify verbiage. The original bill had nominees; no one is a nominee of a political party until they have been nominated by that party. We have changed the word, "nominee" to "candidate for nomination" which is purely a clarifying amendment. What the bill does is give the Secretary of State the sole discretion in printing and distributing the ballots for a new political party for the first time it has been in a primary election.

Sen. MORRISSETTE: Sen. Smith, would this bill empower the Secretary of State to mail a ballot to every voter?

Sen. S. SMITH: No. This bill does nothing along this line. It is purely a technical bill relative to the Secretary of State's power to the printing and distributing ballots to the towns.

Amendment adopted. Ordered to third reading.

SJR 7

appropriating additional money for the Board of Accountancy. Ought to pass with amendment. Sen. R. Smith for Finance.

AMENDMENT

Amend the resolution by striking out all after the resolving clause and inserting in place thereof the following:

That the sum of Sixteen hundred seventy five dollars is hereby appropriated as detailed below for the fiscal year 1971 to the board of accountancy. The sum hereby appropriated is to be expended as follows:

Current expenses	\$1,300.00
Other personal services	325.00
In-state travel	50.00
	<hr/>
Total appropriation	\$1,675.00

The sums hereby appropriated are in addition to any other sums appropriated for the board of accountancy for the fiscal year ending June 30, 1971. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

Sen. R. SMITH: SJR 7 is a supplementary appropriation for the Board of Accountancy in an amount of \$1,675 dollars. It is due primarily to the inability to predict how many applicants for examination that the Board will have in a year's time.

Amendment adopted. Ordered to third reading.

HJR 12

making a supplemental appropriation for the Racing Commission. Ought to pass. Sen. R. Smith for Finance.

Sen. R. SMITH: HJR 12 is a supplemental appropriation for the Racing Commission for \$11,500 dollars. The budget made up for the Racing Commission did not account for an increase of 22 racing dates in the summer of 1970. This appropriation is needed to cover the expenses for those additional racing days.

Adopted. Ordered to third reading.

SJR 13

making a supplementary appropriation for the Liquor Commission for fiscal year 1970-71. Ought to pass. Sen. R. Smith for Finance.

Sen. R. SMITH: SJR 13 is a supplemental appropriation of \$103,000 dollars to the Liquor Commission for additional operating funds to complete fiscal 1971.

The tremendous increase in business volume over that which was predicted two years ago has created a corresponding increase in the variable expenses related to sales in both the stores and in the warehouse.

If operators were to be curtailed during the May-June period the state could suffer a loss in gross profits of half a million dollars.

Sen. KOROMILAS: Would you be more specific as to what costs have arisen with respect to the appropriation.

Sen. R. SMITH: Basically, current expenses, transportation and personnel costs due to increased hours of sales.

Adopted. Ordered to third reading.

SB 17

to reduce the percentage of alcohol in the blood constituting prima facie evidence of intoxication. Inexpedient to legislate. Sen. Tufts for Judiciary.

Sen. TUFTS: SB 17 is sponsored by myself. I am pleased to report that the same interests that were in SB 17 are in HB 80, which successfully transversed the House and the Senate and is on its way to becoming a law in New Hampshire. I wish to express appreciation to the senators for support of HB 80.

Resolution adopted.

SB 61

relative to imposing sentences of commitment in criminal cases. Ought to pass with amendment. Sen. Koromilas for Judiciary.

AMENDMENT

Amend section 1 of the bill by inserting at the end thereof (Any prisoner on whom sentence of commitment to state prison, a house of correction or a jail was imposed prior to the effective date of this section shall be deemed to have served a portion of said sentence, such portion to be the number of days which correctional department records indicate were spent by the prisoner in confinement prior to such sentence awaiting and during trial.) so that said section as amended shall read as follows:

1 Credit for Prisoners Confinement Time Prior to Sentencing. Amend RSA 607 by inserting after section 10 the following new subdivision:

Confinement Before Sentencing

607:10-a Sentencing. The court on imposing a sentence of commitment to state prison, a house of correction or a jail, shall order that the prisoner be deemed to have served a portion of said sentence, such portion to be the number of days spent by the prisoner in confinement prior to such sentence awaiting and during trial. Any prisoner on whom sentence of commitment to state prison, a house of correction or a jail was imposed prior to the effective date of this section shall be deemed to have served a portion of said sentence, such portion to be the number of days which correctional department records indicate were spent by the prisoner in confinement prior to such sentence awaiting and during trial.

Sen. KOROMILAS: Mr. President, SB 61 does, as far as the amendment is concerned, make the provisions of the bill retroactive. The bill, itself, merely gives credit to a prisoner who

is confined for the time that he spent in jail prior to sentence, awaiting trial and during the trial. In other words, the person who is incarcerated and has to wait a length of time before sentencing will be credited with his time towards his sentence. If a person received a two year sentence and he spent a year in jail prior to sentencing, he would only have to serve one year.

Amendment adopted. Ordered to third reading.

HB 63

creating an interim committee to study the problems of disposing of beverage bottles and cans. Ought to pass with amendment. Sen. Porter for Resources and Environmental Control.

Sen. PORTER: Mr. President, I rise in support of the Committee Amendments to HB 63. The amendments are as follows:

1. The Committee is enlarged from 9 to 10.
2. Instead of 5 members of the House E.Q. & A. Committee, 3 are now called for.
3. Three (3) members of the Senate Resources & Env. Control Committee are added.
4. The Committee is authorized to conduct such public hearings as it shall see fit.
5. The Committee is to provide an interim report with preliminary findings & recommendations by 15 Jan. 1972.

I believe each of these proposed changes in HB 63 are self explanatory, and I urge your support of the Committee amendments.

HB 63 has had a rocky journey. The public hearing on the original bill was a Joint House & Senate hearing held at night on 3 February. There were about 300 people present. The original bill called for the banning of cans & the required use of returnable bottles with a 10 & 15c deposit.

The testimony was extensive with the number of opponents being matched by the number of proponents.

Various associations opposed the bill, these included Granite State Grocers — N.H. Distributors (of Malt Beverages), N.H. Wholesale Beverage Assoc., and others.

Various citizens representing themselves were favorable to the bill. Additionally, *groups*, presented favorable testimony. These included the North Country Environmental Action Group, Christian Civic League, White Mountain Environmental Action Group, a group of 25 students from Jefferson High School, Clean Water Association, Seacoast Anti Pollution League, N.H. Tomorrow and others.

The principal argument *against* the bill was:

Litter is a people problem

Causes hardship to grocery stores (in handling health etc.)

Bill is discriminatory

Is inflationary

Will cause *new* unemployment in certain N.H. industries.

Some of the arguments for the bill were derived from the opponents: (The following excerpted from testimony by Councilor Hayes — an opponent of the bill) .

In 1970 — 168 million units of *malt beverages* were sold in N.H. — that's 238 per man, woman, & child.

Of solid waste — it was reported that 3.9% are from beverage containers. (based on 1 ton/yr average contribution per person (or 700,000 tons plus) , 27,300 tons per year are created from *beverages* alone in N.H.

Of Litter: 20% composed of beverage containers.

I think it's interesting to consider the influence of the "packaging industry" on our way of life. In other words why are we in the position of a "non-returnable syndrone"? Because the packaging business is *BIG* business! In 1970, more than \$20 billion were spent on packaging. Packaging accounts for (in U.S. Output) : (Babson report)

80% of non-flat glass

50% of paper & paperboard

25% of plastics

8% of steel output!

The Glass Containers Manufactures Institute has devoted

a well financed effort to indoctrinate Americans obviously successfully to the non-returnable attitude. This same GCMI operates a bottle collection recycling plant in Connecticut; however, they are only open 9-12 Saturdays, pay 1 cent/lb for clean, color sorted, metal free small pieces of glass.

The recycling problem of cans & bottles to be studied by this Committee will no doubt cross over into the problems of recycling of many items, i.e. the Committee has the elasticity to review other related problems, paper, plastics, automobiles, water and others.

Recycling of paper might be expanded. I read in the Sunday paper recently that *one edition* of a New York paper — requires the pulp from 35 acres of woodland! Translating this to our local papers — it means roughly 1.2 acres for *each edition* of the MUL. As to recycling in New Hampshire, I have learned that:

Any scrap dealer will buy salvaged all aluminum cans, at 7-10 cents/lb.

Coca Cola is being marketed in tin-free cans (which is more easily smelted.) Coke in Nashua will accept these cans, but will not pay for them.

Society for Protection of N.H. Forests is attempting to establish reception centers in Southern New Hampshire.

Glass must be broken up, color sorted and sometimes crushed in order to be sold. The only N.E. plant (recycling) as far as I know today is in Conn. as previously mentioned.

I hope the spirit of this legislature is such that this initial step can be taken to reduce the "spring crop" of bottles & cans along our roadways. I urge you to vote in favor of HB 63 as amended. Thank you.

Sen. SPANOS: Sen. Porter, I am reading the amendment and I am a little bit confused as to who will have the authority to appoint these members. The amendment reads, "there is hereby established a legislative study committee of ten members to study proposals for the recycling of bottles and cans, said committee to include, in its membership, one person from the general public, one person from the soft drink industry, one

person from the Retail Grocers Association, one person from the malt beverage industry, and then, three members from the House Environmental Quality and Agriculture Committee appointed by the Speaker of the House. Is it the intention of this amendment that the Speaker of the House appoint the four members of the public or just the three members of the House Environmental Quality and Agriculture Committee or have you left out how it is going to appoint one, two, three and four?

Sen. PORTER: Thank you for bringing it to the attention of the Senate that it was left out. Our amendments did not address that particular point.

Sen. SPANOS: You expect that a Committee of Conference will have to solve that problem?

Sen. PORTER: Yes.

Sen. KOROMILAS: Sen. Porter, what was the position of the Governor's Environmental Commission on this particular bill?

Sen. PORTER: The Governor's Environmental Council did not testify on behalf either for or against.

Sen. FERDINANDO: Mr. President, my understanding is that we have a Legislative Study Committee, created in the last session, and I am wondering if we are not duplicating our efforts in this direction. Since we created a legislative study commission, for us not to utilize it seems to be in error. I am wondering if I could make a motion to refer this to the Legislative Study Committee as long as we have one.

Sen. PORTER: Mr. President, I would like to withdraw the proposed amendment to HB 63 which I previously explained and substitute another amendment which just adds in the deletion of who names the first four members of the Commission.

Adopted.

Amendment withdrawn.

AMENDMENT (NEW FORM)

Amend the bill by striking out section 1 and inserting in place thereof the following:

I Committee Established. There is hereby established a legislative study committee of ten members to study proposals for the recycling of bottles and cans. Said committee to include in its membership one person from the general public, one person from the soft drink industry, one person from the Retail Grocers' Association and one person from the malt beverage industry, said four to be appointed by the Governor; three members from the House Environmental Quality and Agriculture Committee, appointed by the Speaker of the House, and three members of the Senate Resources and Environmental Control Committee, appointed by the President of the Senate, with recommendation of the Chairman of said committees. The committee shall make a careful study of the problems engendered by the disposal of beverage containers and of the need or advisability of the enactment of laws relating to the subject. The committee shall have full power and authority to require from the several departments, agencies and officials of the state and of the political subdivisions of the state such information and assistance as it may deem necessary for the purposes hereof, and may conduct such public hearings as it shall see fit. The committee shall report its findings and recommendations, together with drafts of any proposed legislation necessary to carry out such recommendations, to the next regular session of the Legislature before the end of the second week of said session and shall submit an interim report by January 15, 1972 which shall include any preliminary findings and recommendations. Committee members shall receive no compensation for their service, however, legislator members shall be paid mileage.

Sen. PORTER: Mr. President, the amendment is basically the same as I previously explained. Sen. Spanos was kind enough to point out that no one was designated to appoint the first four members of the Commission. We have added in, as a Committee amendment, that these members shall be appointed by the Governor and this would take care of that deletion. Other than that, all my previous remarks stand.

Sen. KOROMILAS: Sen. Porter, does the Governor, according to your new version, appoint the four members on his own or is it with the advise and consent of the Council?

Sen. PORTER: He appoints them on his own.
Amendment adopted.

Sen. LAMONTAGNE: Mr. President, I move that HB 63 and all its amendments be referred to the Legislative Study Committee. This bill again would have to go back to the House and a Committee of Conference. We already have a study committee and I believe that they would be able to perform a worthy job on this. The study committee would have to go further because you find, on the highway, many cans of oil from people who must stop along the way to change their oil. There are many things outside of alcoholic and soft beverages that must be looked into. This is one of the reasons I am in favor of a study committee rather than sending it back to the House.

Sen. PORTER: Sen. Lamontagne, how many bills does the Legislative Study Committee have referred to it each year?

Sen. LAMONTAGNE: There are many, and good recommendations have resulted, but I don't know the exact number.

Sen. PORTER: Wouldn't you think that the magnitude of the problem posed here on recycling of bottles and cans needs the attention of not only the legislators, but other outside industrial members?

Sen. LAMONTAGNE: Personally, I feel that the legislative group are very capable of knowing what the problem is because it has existed for quite a long time. Outside parties may still appear at the public hearing that the Legislative Study Committee would hold.

Sen. PORTER: If a special Legislative Study Committee were to be established, would this not be able to direct its attention solely to this one problem?

Sen. LAMONTAGNE: Yes, they would, but still I feel that there is another problem. I think you will find that the bill does not spell out who is going to be the Chairman and when it is to organize.

Sen. MORRISSETTE: I would like to compliment the Committee for coming up with this idea. This is a monstrous problem and it requires the effort of a special committee where you will have good, cross-representation of parties who will make a special effort and be able to devote their time and energies. I am very pleased with the amendments.

Sen. NIXON: Mr. President, I rise in opposition to the pending motion to refer the disposition of HB 63 to the Legislative Study Committee as opposed to its being sent, as the Committee recommends, to a special study committee. The Legislative Study Committee's report, submitted in December of 1970 with respect to the interim 1969-70, indicates that the Committee, during that period, had considered not less than 45 matters and had only 18 meetings to consider all of those matters, some of great complexity. The present matter, that involving the recycling of bottles, cans, and the disposition thereof is one that I think no one would suggest is other than extremely complex, not only in terms of the mechanics of it, but also its ramifications in terms of employment, new industry which has come into New Hampshire and I would suggest to you that the legitimate interests of the persons in the business of circulating bottles and cans for commercial purposes are best served by this matter being considered by a special committee; one designed and tailored to present a background of some knowledge and expertise in this particular area. I might also say that I feel the consumer has a small interest in the eventual disposition of this bill and any recommendations that might come from the special study committee.

Sen. KOROMILAS: Sen. Porter, what was the House version when it arrived in the Senate?

Sen. PORTER: The House version was the same as the Senate version without the amendments; nine members: five members of the House. It did not include the public hearing aspect or an interim report.

Sen. KOROMILAS: If my memory serves me correctly, did not the committee report in a different version about a week ago and it was withdrawn?

Sen. PORTER: The committee report in the calendar was the same as the committee report today.

Sen. KOROMILAS: There was no other version prior to this one?

Sen. PORTER: There was none printed.

Sen. S. SMITH: Mr. President, I rise in opposition to the pending motion. I have had the privilege of serving for two interims on special committees relative to motor vehicle laws.

On that committee were members of industry, Executive Department through the Department of Safety and with a specialized and highly important piece of legislation such as this, I think that it is equitably and more understandably treated in a special committee than through a regular Legislative Study Committee.

Sen. FERDINANDO: Mr. President I support the motion of Sen. Lamontagne. I do so based on the fact that we have a situation here where this bill, as amended, would go to the House and Committee of Conference. We know we have a Legislative Study Committee, its members and purposes. We should utilize this committee.

Sen. DOWNING: Mr. President, I rise in opposition to the motion. The Legislative Study Committee is a group which I served two terms with. I don't feel that this committee is capable of giving this subject the study that it requires. I recognize that it is one of the more pressing problems of our times and certainly is deserving of a specific committee to study this. I feel that the industrialists involved are just as anxious as the environmentalists to resolve this situation. I oppose the pending motion and support the Committee Report.

Question to refer to Legislative Study Committee.

Motion lost.

Sen. SNELL: Mr. President, I move that HB 63 be further amended and at this time I would like the Clerk to distribute my amendment to HB 63 offered at this time.

Sen. SNELL: Mr. President — Members of the Senate: I do not rise to attack any one industry or any single aspect of our society's commerce. I believe that we all can agree that the basic reason for the major part of the problem of unsightly litter which gives immediate evidence of environmental decline — is the thoughtlessness of individuals. A great many people simply feel no personal responsibility for the appearance of streets, highways or our countryside. In this instance, we cannot shift blame to any industrial culprit. It is the individual citizen who creates the eyesore of obvious litter, and only the individual can prevent it.

But, having made this point, I must observe that if we did not have certain kinds of packaging and certain types of con-

tainers in wide use, the availability of litter with which thoughtless individuals can mar our landscapes might not be so great.

I ask your indulgence in a very brief history of the container. In ancient Egypt and Rome, earthenware jugs were used and, obviously, re-used. In 1500 B.C., the glass container was invented and used in a variety of forms. Because my remarks are not intended as a history lesson, I am going to jump many centuries in a single bound and land at the end of the 18th century when bottles as we know them took on a basic shape — several basic shapes for that matter but all recognizable as bottles.

By 1903 the first automated bottle making machine was perfected and by 1935 the beverage of moderation was being put into cans as well as bottles. In 1948 the non-returnable bottle became prevalent — in more ways than one. With the 1960's came a development which allowed one to open cans without a separate opener. As I have tried to indicate, this little history lesson is not a diversion but a very partial explanation of part of the plight we are in as a result of convenience packaging.

What is the major problem of the seventies in this area? We are getting to the point where the rate of consumption will exceed even the regeneration of our natural resources. But let's take a hard and a pointed look at some specific facts.

In the U.S. alone, non-returnable containers account for 75% of the packaged beer market. In this country the industry will add close to 3 billion empty bottles and cans to the garbage pile. And that pile is spilling over into our lakes, our rivers, our picnic grounds, and our roadsides.

The packaging people have the resources and the power to bring about a major revolution in packaging. And that industry must face the fact that unless it is prepared to do something to alleviate the condition — the government must act in defense of its environment and the good of its citizens.

We should have legislation for the reuse and even the standardization of glass containers. We must direct the resources of industry to produce the ideal package. The packaging people themselves must set the pace. I do not ask that this industry be placed in jeopardy. I do ask for a change in attitude. If we

must — we shall *have to legislate* to challenge the manufacturer to do his part in environmental control and improvement. Three billion bottles and cans is one heck of a big garbage pile!

Sen. LAMONTAGNE: Sen. Snell, are you aware that if this amendment is adopted, by using the words, “carbonated beverage” that tomato juice, orange juice and the like that comes in bottles would be non-returnable?

Sen. SNELL: I am not sure if your definition of carbonated beverage and mine are the same because as far as our juices are concerned, carbonated beverages, as far as fruit juices are concerned, are not incorporated.

Sen. LAMONTAGNE: What about tomato juice, they use carbonated water don't they?

Sen. SNELL: If they do, they will apply under this bill.

Sen. DOWNING: Sen. Snell, looking here under Penalty 351:83, it says, “Whoever sells soft drinks for consumption off the premises in other than in a returnable container shall be fined not more than \$500 for the first offense and not more than \$1000 for each subsequent offense.” Does not this ban all canned beverages?

Sen. SNELL: I want to explain just one thing in answering this question. I run a golf course and last year we sold more than 2,000 cases of tonic alone. I realize what this will do to me but I feel that it is our major part in playing a role to help this problem of going to a recycling of glass containers.

Sen. DOWNING: Are you aware that there are bottling industries in our state and that it would be impossible to convert their operation. They, in effect, would have to go out of business if somebody came in with a cardboard container. There are industries that would be put out of business by out-of-state competition and inability to convert and comply with this amendment?

Sen. SNELL: I am not sure that they couldn't convert. It would take time but I believe that they could convert.

Sen. DOWNING: In the time premitted by this legislation?

Sen. SNELL: Yes, sir.

Sen. NIXON: Sen. Snell, I have not seen this amendment before today but as I look at it, it seems to me that it is pretty much the same as HB 63 was when it was originally introduced into the House except that the amount to be paid on the return of the bottles has been reduced somewhat. Is that correct?

Sen. SNELL: Yes, plus the effective date and subscription of New Hampshire sale only.

Sen. NIXON: I know there was extensive testimony in regard to this bill before the Joint Committees. I do recall that there was some representation that alternative proposals of an affirmative nature towards the solution of the returnable bottle and can problem would be offered by the districts affected. Was there, in fact, any affirmative proposal for a solution for this perplexing problem offered at any time, to your recollection, to the Committee, by the industry?

Sen. SNELL: To my recollection, no.

Sen. MCCARTHY: Sen. Snell, did you say that you could see the merit in the Committee's Report that it should be referred to a special study committee?

Sen. SNELL: Certainly. Any approach in the right direction, except mine, is a little more drastic than the amendment that we passed just a few minutes ago.

Sen. MCCARTHY: You don't feel that this would be considered, in any way, premature? Maybe a bad step in view of the fact that the study committee really hasn't had time to discuss questions such as Sen. Downing posed?

Sen. SNELL: No, sir.

Sen. DOWNING: I rise in opposition to the pending motion and the amendment. I think it is a flagrant discrimination against New Hampshire industry and business in general. These people have indicated a recognition of the problem and a sincere desire to work for satisfactory resolutions of the problem. I think this would be well-met with if the Committee Report, as originally presented is complied with.

Sen. SNELL: Sen. Downing, in my statement I stated that "in 1903, the first automated bottling machine came into play. In 1935 they started the bottling of beer." This is a period of

35 years. Don't you feel that the industry should start in the right direction now?

Sen. DOWNING: I think the industry has every intention of starting in the right direction now. I don't think that the public has been concerned, or recognized the problem until now. They have been proceeding on as economical a basis as they could. There are other considerations and I think the industry is prepared to meet these considerations but under an orderly process; not as you recommend.

Sen. SNELL: Do you feel that the testimony this afternoon may help persuade the industry to start in the right direction?

Sen. DOWNING: I think the industry has started in the right direction, with or without the testimony.

Sen. NIXON: Mr. President, I rise in opposition to the motion to amend submitted by Sen. Snell, notwithstanding my concern about the problems that he has eloquently described as has our Chairman, Sen. Porter in his thorough and well-researched report. My reason for opposing the amendment now before you as proposed by Sen. Snell is that the Committee thoroughly considered all ramifications of its actions and the study committee recommendation, which has been adopted by this Senate today in its wisdom; was the net result of our thinking because of the reported threats of job losses to New Hampshire people if the version of HB 63, as originally introduced, or as now proposed by Sen. Snell, were acted upon in an affirmative way.

I would like to make it a matter of record that I felt that our Committee, under the able Chairmanship of Sen. Porter, exercised extreme patience and courtesy in awaiting some sort of an affirmative suggestion of a legislative nature from the representatives of the industry who have legitimate reasons for opposing HB 63 as originally introduced and who, in fact, represented that some such affirmative proposals would be forthcoming for our Committee's consideration. I quote from the testimony of a distinguished representative from an industry directly affected in this matter at the hearing on February 3, 1971 before the Joint Committees. "It was decided that the industry would develop a *meaningful, workable*, piece of legislation aimed at attempting to solve the litter problem — legislation designed to be realistic and workable for the industry, equally

realistic and enforceable for government. As of Tuesday night, this proposed legislation is not ready, but I can assure you that it is receiving the highest priority. It will be ready shortly. I ask that you hold, in advance, consideration of this bill until the industry proposal is available."

That was February 3, 1971. This is April 14, 1971. We still await the industry's proposal. Again, I reluctantly oppose the amendment now before you and ask that you support the Committee's original recommendation.

Sen. MORRISSETTE: I rise in opposition to the motion because I am afraid that they will kill the original bill which is very, very good. I feel very strongly that it would be immediately feasible and I hope to see such a bill regarding alcoholic beverages and taxing recreation. I think it can well afford it and we are ready for it. The bill is extremely broad and will destroy some of our industries who could, over a reasonable period of time, solve the problem. I was not approached by anyone who opposed the bill. I feel the present motion might jeopardize the bill.

Sen. MCCARTHY: I rise against the proposed amendment. As a member of the Environmental Control Committee, I sat through the entire public hearing. I also received the same letters from elementary classes advising me what to do here in this Chamber. This is a complex, serious problem and I feel the Committee acted most responsibly in letting the industry know that we are indeed very serious about this.

Sen. S. SMITH: Mr. President, I rise in opposition to the pending motion and I do so for many of the reasons which have been brought forth today. One which distrubs me more is that the proposed amendment takes into consideration a static society. I am not sure that recycling is the answer. I am not sure that returnable bottles are the answer. I think industry, particularly the glass and the metal industries have been working hard over the years and have taken many revolutionary steps in many aspects. I would not be surprised if within the next year or year and a half to see bottles on shelves in stores which are still non-returnable but which can be disposed of without creating the junk problem which we have today. For these reasons, I would strongly oppose this amendment and hope that we may see, in the not too distant future, bottles which will be disposed

of, could be burnable and yet non-toxic, but I would also like to go on record that the Senate and the House have given this bill long consideration and if industry does not move, I would hope that the Legislature would in two years.

Sen. LEONARD: I move the previous question.

Adopted.

Question of the amendment as offered by Sen. Snell.

Amendment lost.

Sen. LAMONTAGNE: Sen. Porter, could you tell us if, before your committee, if such things as fruit juices and things of that nature were covered?

Sen. PORTER: I don't recall, the bill, as it came to the Senate, called for an interim study commission and it did not mention carbonated beverages.

Adopted Ordered to third reading.

FURTHER MESSAGE FROM THE HOUSE
NON-CONCURRENCE ON HOUSE BILL
WITH AMENDMENT AND REQUEST FOR
COMMITTEE OF CONFERENCE ON

HB 164, to allow discovery in criminal matters prior to indictment. The Speaker has appointed as members of said Committee on the part of the House, Reps. Bradley, Nighswander and Alukonis.

On motion of Sen. Nixon, the Senate voted to accede to the request for a Committee of Conference.

Adopted.

The President appointed as conferees of said Committee on the part of the Senate, Sens. Jacobson and Leonard.

Sen. Porter moved the Senate do now adjourn from the early session and that on third reading, all bills be read by title only and resolutions by caption only, and that when we do adjourn, we adjourn to meet at 11 A.M. tomorrow and we do so in honor of the 34th birthday of Dick Chaput of Nashua, who, though paralyzed from the neck down since an attack of polio at age 9, has demonstrated leadership and courage with academic and intellectual achievements too numerous to list; who

has constantly made contributions to his community, his state and his nation — of which we're all proud.

Adopted.

Sen. S. Smith in the Chair.

LATE SESSION

Third reading and final passage

HB 224, relative to number of ballots to be printed for primary elections.

SJR 7, appropriating additional money for the Board of Accountancy.

HJR 12, making a supplemental appropriation for the racing commission.

SJR 13, making a supplementary appropriation for the liquor commission for fiscal year 1970-71.

SB 61, relative to imposing sentences of commitment in criminal cases.

HB 63, creating an interim committee to study the problems of disposing of beverage bottles and cans.

Sen. Porter moved reconsideration. Motion lost.
Adopted.

Sen. Snell moved the Senate adjourn at 2:55 o'clock.
Adopted.

Thursday
15Apr71

The Senate met at 11 o'clock in Joint Convention.

RECESS

The Senate reconvened at 1 o'clock.

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 594, relative to the manner and number of voter signatures required to allow presidential and vice presidential candidates to have names placed on primary ballot. (Executive Departments, Municipal and County Governments)

HB 589, legalizing certain town meetings in the Town of Windham. (Executive Departments, Municipal and County Governments)

HB 541, relative to town appropriations for Independence Day. (Executive Departments, Municipal and County Governments)

HB 527, establishing certain new charges and fees to be collected by tax collectors. (Executive Departments, Municipal and County Governments)

HB 509, providing workmen's compensation on a voluntary basis to persons engaged in business under certain circumstances. (Ways and Means and Administrative Affairs)

HB 516, relative to uniformed police officers in attendance at public dances, carnivals, and circuses. (Judiciary)

HB 301, limiting the hours when snow traveling vehicles, mini bikes, and all terrain vehicles transporting firearms may be used during the deer hunting season. (Public Works and Transportation)

HB 642, eliminating the payment of taxes as a condition precedent to receiving the service exemption from taxes. (Executive Departments, Municipal and County Governments)

HB 453, exempting persons on active duty with the armed forces from payment of the poll tax. (Executive Departments, Municipal and County Governments)

ENROLLED BILLS REPORT

HB 68, prohibiting the hunting or taking of white deer, and defining the same.

HB 80, to reduce the percentage of alcohol in the blood constituting prima facie evidence of intoxication and relative to samples taken for the purposes of the implied consent law.

HB 174, amending the charter of the Manchester Children's Home.

HB 217, relating to occupational health services.

HB 246, authorizing the use of breath tests to determine the percentage of alcohol in the bloodstream of motor vehicle operators.

SB 56, relative to the suspension of motor vehicle licenses of minors in possession of alcoholic beverages.

Sen. Provost
For the Committee

Sen. POULSEN: Mr. President, I move that SB 90 be vacated from Public Works to Judiciary. This bill has to do with the penalty for speeding; the difference in the minimum fine for the first and second offense. I think that the matter would better be handled by the Judiciary Committee.

Sen. LAMONTAGNE: I would like to add that the Judiciary Committee has similar bills.

Adopted.

HOUSE AMENDMENT TO SENATE BILLS

SB 40, relative to petitioning for articles to be placed in town warrant.

(See House Journal for amendment.)

Sen. Jacobson moved concurrence.

Adopted.

SB 6, providing that when highway work requires relocating municipally owned underground utility facilities the governmental agency doing the work shall pay for the trenching and backfilling.

(See House Journal for amendment)

Sen. Poulsen moved concurrence.

Adopted.

NON-CONCURRENCE ON HB WITH AMENDMENT AND REQUEST FOR COMMITTEE OF CONFERENCE

HB 110, relative to the conduct of voting at town and village district meetings and school districts within said town and relative to the authority of school district moderators.

The Speaker has appointed as members of said Committee on the part of the House, Reps. Hanson, Mann, and O'Neil.

On motion of Sen. Jacobson, the Senate voted to accede to the request for the Committee of Conference.

The President appointed as conferees on the part of the Senate, Sens. Jacobson, Ferdinando and Marcotte.

HOUSE CONCURRENCE

HB 63, creating an interim committee to study the problems of disposing of beverage bottles and cans.

HB 224, relative to number of ballots to be printed for primary elections.

COMMITTEE REPORTS

SB 32

recognizing common law marriage after thirty days cohabitation for the purpose of certain support obligations. Inexpedient to legislate. Sen. English for Judiciary.

Sen. NIXON: Mr. President, I respectfully move that SB 32 be recommitted to the Committee on Judiciary. This bill has been the subject of some quite extensive work on the part of Sen. Morrisette. There was an original draft; at the time of the hearing, there was a second draft and since then, he has come up with a third draft which involves complex questions of support, common law marriage, and there is some indication that

Sen. Jacobson, who has some expertise in the area of drafting common law marriage legislation, may have a bill of his own that he and Sen. Morrissette could get together on before the session ends. With these reasons in mind, the Committee is agreeable to recommitting this in order to give both gentlemen the opportunity to come up with an agreed bill.

Adopted. Recommended.

SB 3

restricting the sale, possession, and sniffing of model glue. Ought to pass with amendment. Sen. Koromilas for Public Health, Welfare and State Institutions.

AMENDMENT

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 License. No person shall sell or possess for sale any quantity of model glue unless he shall have been issued a license permitting said sale or possession by the chief law enforcement officer of the town or city where said sale or possession is exercised.

2 Issuance of License. Licenses required by section 1 shall be issued to any applicant who satisfies the issuing officer that he is engaged in the wholesale or retail sale of merchandise and that his sale or possession of model glue shall be in the normal course of said business. A license issued hereunder shall be substantially in the following form:

.....
(date)

..... of
(name) (address)

..... is hereby authorized
(city or town)
to sell model glue.

.....
(signature of chief law
enforcement officer)

.....
(title)

A copy of said license shall be issued for each place of business operated by the licensee and said copy shall be kept at each place of business. Said license shall be deemed to permit sales on the business premise by employees of the licensee.

3 Registration of Sales. Wholesale and retail sellers of model glue shall keep a record of each sale of model glue which reflects the date of purchase, the quantity of model glue sold and the name and address of the buyer. Entries in said record shall be signed by the buyer. The record shall be maintained for each calendar year and retained for two years when it shall be destroyed by the seller. The record so maintained or retained shall be open to inspection by law enforcement officers during normal business hours.

4 Possession or Transfer. Any person who shall possess, buy, sell, transfer possession or receive possession of any model glue in violation of sections 1, 2 and 3 shall be fined not more than five hundred dollars or imprisoned for not more than six months or both.

5 Application. Sections 1 through 4 shall not apply after January 1, 1972.

6 Glue Sniffing. Amend RSA 571 by inserting after section 30 (supp) the following new sections:

571:31 Definition. "Model glue" means any glue or cement of the type commonly used in the building of model airplanes, boats and automobiles, which contains toluene, acetone, or other solvent or chemical having the property of releasing toxic vapors and does not contain the additive required by RSA 571:33.

571:32 Glue Sniffing Prohibited. No person shall, for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction or dulling the senses of the nervous system, intentionally smell or inhale the fumes from any model glue. Whoever violates the provisions of this section shall be fined not more than one hundred dollars.

571:33 Additive Required. On and after January 1, 1972 all model glue sold in this state shall contain oil of mustard (allyl isothic cyanate) or some other additive in sufficient quantity to cause nausea upon inhalation of the glue's fumes. Any person who sells, transfers, or holds for sale or resale model glue

in violation of this section shall be fined not more than three thousand dollars.

7 Effective Date. This act shall take effect sixty days after its passage.

Sen. KOROMILAS: Mr. President, SB 3 was proposed by Sen. Leonard. I will go through each item of the amendment; it can be found on page 36 of today's *Legislative Report*.

The bill would require that any person who sold model glue would have to get a license from the city or town where the sale of model glue is taking place.

Section 2 gives a sample of the license: what has to be done, what has to be signed, etc., by the chief law enforcement agent.

With respect to Section 3, there is a record requirement on the part of the owner that stipulates that any person who sells, either wholesale or retail, model glue must acquire the name of the person buying the glue.

Section 4 deals with anyone who violates the preceding sections would be subject to a fine of \$500 and imprisoned not more than 6 months.

These first four provisions will stay on the books until January 1, 1972. After 1972, it will be a requirement on the part of the industry that makes the glue to add an additive of sufficient quantity to cause nausea on the part of the person who is sniffing the glue. Therefore, after 1972, the manufacturer and the retailer may sell model glue with the additive. Furthermore, there is nothing in the bill that makes it a crime to possess glue between now and January 1, 1972, but it is a crime to sniff glue.

The Committee felt that the time has come to make the manufacturer add something to the glue that would prevent the child from sniffing its fumes. They felt that this was the *only* way to prevent this type of thing rather than giving records to young chaps who sniff glue.

Sen. POULSEN: Does the senator think that there will be many sick model airplane makers as a result of this additive?

Sen. KOROMILAS: I don't think so, but in case a few did, at least they would get sick.

Sen. MORRISSETTE: Could you explain the stipulation of when it is a crime to possess the glue?

Sen. KOROMILAS: If a child had glue in his possession, this would not be a crime.

Sen. NIXON: Can the additive be so measured that a boy working closely with it on his model would not get sick but if he sniffed it to get "high" he *would* get sick?

Sen. KOROMILAS: I would refer the question to Sen. Leonard who is the expert on the additive aspect.

Sen. LEONARD: This additive has been used many times recently. There was testimony at the hearing that it would not hurt the individual unless he tried to inhale great amounts of it.

Sen. PORTER: Sen. Koromilas, what are the conditions of out-of-state purchase and importation of small quantities.

Sen. KOROMILAS: There are no provision to prevent that type of thing.

Sen. MORRISSETTE: I am quite concerned with the statement you made regarding the heavy fine which you could get. Are you using the word, "shall" or "may" because there are likely to be many small stores that have a few bottles left over.

Sen. KOROMILAS: The word "shall" on page 38 "shall be fined not more than \$3000." That limits the top of the fine. The Court could impose a lesser fine.

Sen. SNELL: I would like to point out a typing error on page 37 concerning the regulation of sales. It presently states: "The record so maintained or retained shall be open." I believe it should state, "The record so maintained shall be open to inspection." Is that correct Sen. Koromilas?

The CHAIR would state that the official version that we have here, Section 3, Registration of Sales, states, "The record so maintained or retained shall be open to inspection by law enforcement officers during normal business hours."

Sen. PORTER: Sen. Koromilas, on the additive placed in this glue, has this been demonstrated that this can be done without any problem?

Sen. KOROMILAS: There was some testimony that it could be done.

Sen. PORTER: Have you had any testimony related to any possible lasting, physical damage; maybe the additive might cause permanent damage of some sort. Was there any support or testimony of this fact?

Sen. KOROMILAS: No. we haven't had any expert testimony, however, I think it is important to state that there is no question, at the present time, that sniffing glue without the additive does a great deal of damage to the individual's brain.

Amendment Adopted. Ordered to third reading.

HB 206

relative to the Director and Deputy Director of the New Hampshire Distributing Agency. Ought to pass. Sen. Snell for Public Health, Welfare and State Institutions.

Sen. SNELL: Mr. President, HB 206 was introduced by Rep. Miner of Merrimack, District 23. He stated that one of the divisions within the Department of Administration and Control was the Distributing Agency which receives surplus food into the department and distributes this food to qualified recipients throughout the state. The question here today has to do with unclassified positions and classified positions. At the present time, the federal government has advised the State of New Hampshire that the position of Director and Deputy Director, which this applies to, could not continue to be unclassified under the federal rules and regulations, therefore, this bill was submitted so that these two individuals would become classified under the State of New Hampshire. I hope that you will see fit to pass HB 206.

Sen. PROVOST: Under what grade would they be classified?

Sen. SNELL: This would be up to the Comptroller and I am hopeful that these individuals, when they are reclassified, would receive comparable salaries to what they are already receiving at the present time.

Referred to Finance.

HB 233

relative to the definition of a child-caring agency. Ought to pass with amendment. Sen. Snell for Public Health, Welfare and State Institutions.

AMENDMENT

Amend RSA 170:2, II as inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

II. Receives for foster care, custody or control one or more children under the age of sixteen years any one of which stands in a relationship to the operator of the child-caring agency more distant in the degrees of kinship, by affinity or consanguinity, than second cousin who are separated from their parent or guardian, except children committed by a court or during part or all of the day regularly gives care to one or more children, any one of which stands in a relationship to the operator of the child-caring agency more distant in the degrees of kinship, by affinity or consanguinity, than second cousin, whether or not the care is given for compensation, and whether or not the service is known as a family day care home, child care center, day nursery, day care agency, child development center, nursery school, kindergarten, play school, progressive school, or by any other name. The term child-caring agency does not include a bona fide summer camp, a hospital, a public school, a private school approved by the state board of education or a private home or other facility in which a child is left by his parent or guardian for temporary care for a period not exceeding thirty days in any calendar year. Such child-caring agencies shall keep a register of the name and address of each child, the name and address of his parent or guardian and the dates of his arrival and departure. Such register shall be available at any time for the inspection of the Director of Welfare or his authorized representative.

Sen. SNELL: Mr. President, HB 233 was placed by Rep. Cobleigh from the Fifteenth District at the request of the Division of Welfare and I have a statement here.

(Read statement)

The amendment that is in the Senate Report today just clarifies the word, "for" and inserts "one" and on line 8, strikes out, "under twelve years of age" so that the bill will actually follow the same level as far as one and the age level. I hope you will see fit in passing HB 233.

Sen. MORRISSETTE: As you probably read in the papers, most of our homes that take care of children are being

driven out of existence by the Welfare Department. Is this bill sponsored or for the Welfare Department or what?

Sen. SNELL: This bill was actually sponsored by the Welfare Department but it has not intent towards your first statement.

Sen. MORRISSETTE: Was there any opposition at the hearing?

Sen. SNELL: No opposition at the hearing.

Amendment adopted. Ordered to third reading.

ANNOUNCEMENT BY THE CHAIR

Starting next week, we will be using a slightly different form in the *Legislative Reports and Hearings*. That change will consist of showing reference to House amendments so that you will be aware of the fact that an amendment had been put on the bill and consequently, it would be in different form than what you found in your bill book.

HB 334

relative to the commitment of drug dependent persons. Ought to pass. Sen. McCarthy for Public Health, Welfare and State Institutions.

Sen. MCCARTHY: Mr. President, HB 334 is an attempt to professionally control the problem of drug dependence. The bill, which was sponsored by Rep. Zachos, provides that in felony cases where a question as to drug dependency comes up by either party, the person involved may be referred for examination under the supervision of the director of the program of alcohol and drug abuse. The director, right now, already has considerable responsibility for this in cases of alcoholics and this bill merely gives him the same responsibility in cases of drug dependency. Dr. Atchinson appeared on behalf of the bill, Mr. Trow and Mr. Zachos were in favor. No one opposed the bill.

Sen. JACOBSON: I noticed in your talk that you only mentioned the word, "felony." The original bill also has misdemeanor. Was there a change in that?

Sen. MCCARTHY: No, there has been no change. It would also include misdemeanor.

Adopted. Ordered to third reading.

SB 66

requiring persons engaged in the hunting of big game animals to display on their person a minimum amount of color known as hunter orange. Ought to pass with amendment. Sen. Koromilas for Recreation and Development.

Amend the bill by striking out section 1 of the bill and inserting in place thereof the following:

1 Required Display for Big Game Hunters. Amend RSA 208 by inserting after section 23 the following new section: 208:24 Display Requirement for Big Game Hunters. Any person hunting big game with firearms in this state shall display on his head, chest and back a total of not less than four hundred square inches of hunter orange material. "Hunter orange" shall mean a daylight fluorescent orange color with a dominant wave length between five hundred ninety-five and six hundred five nanometers, an excitation purity of not less than eighty-five percent and a luminance factor of not less than forty percent. Any person who violates any provision of this section shall be fined not more than twenty-five dollars.

Sen. KOROMILAS: Mr. President, referring to yesterday's *Legislative Report* on page 28, the most important words are "hunting big game with firearms," so the wearing of hunters' orange would be limited in those cases where people hunt big game with firearms. This excludes birds, rabbits and what have you. It required those people who hunt big game must have a display on head, chest and back, a total of not less than 400 square inches of hunter orange material. The amendment does define what orange is. Furthermore, any person who violates the provisions of this section would be fined not more than \$25.

Sen. POULSEN: Mr. President, I move that SB 66 be made a Special Order of Business for Tuesday, April 20 at 1:01.

Adopted.

SB 75

to provide tax relief for towns and cities wherein the Fish and Game Department has acquired taxable forest land. Inexpedient to legislate. Sen. Koromilas for Recreation and Development.

Sen. KOROMILAS: Mr. President, SB 75 was introduced by Sen. Townsend of the Fifth District. It would allow situations where the Fish and Game or any subdivision thereof held

land in a particular town or city, it would be taxed to an amount equal to one half of the average tax rate per acre. The Committee was told that this would probably run about 65 cents an acre. This would be the rebate for the towns and cities. The Committee felt, however, a principle was involved here. Once a state instrumentality did rebate the cities and towns, this may open up a Pandora's Box with respect to Concord, which does have state buildings; it could affect the UNH where they may want a rebate. Therefore, because of the principle involved, we felt it was inexpedient to legislate.

Resolution adopted.

HB 62

relative to bob houses. Ought to pass with amendment. Sen. Koromilas for Recreation and Development.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

an act relative to bob houses.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Penalty for Burning Bob Houses. Amend RSA 211:17-a, III (supp) as inserted by 1969, 38:1 by striking out said paragraph and inserting in place thereof the following: III. No person owning or placing a smelt shanty or bob house on the ice for the purpose of ice fishing shall conspire with another to burn said bob house or smelt shanty thereon. Whoever violates the provisions of this paragraph shall be fined not more than fifty dollars.

2 Effective Date. This act shall take effect sixty days after its passage.

Sen. KOROMILAS: Mr. President, the amendment merely adds the words, "shall conspire with another to burn said bob houses" instead of the words, "shall cause or allow the same to be burned." Also, the amendment does strike out a repeal section with respect to the requirement of the Fish and Game to remove mussels in the middle grounds at Seabrook. The amendment does not allow the repeal of that provision.

Amendment Adopted. Oredred to third reading.

HB 100

relative to enacting the Uniform State Feed Bill and repealing the Commercial Feed Law. Ought to pass. Sen. Porter for Recreation and Development.

Sen. PORTER: Mr. President, HB 100 deals with operating the state-wide uniform feed bill. It repeals the present Commercial Feed Law and brings New Hampshire into line with many other states. It could be considered as a consumer protection bill. It was supported by the Commissioner of Agriculture, Mr. Buckley; it was framed by many persons active in the commercial feed area. The various groups have had a chance to review it and I urge your support.

Sen. TOWNSEND: Mr. President, I would be remiss in my duties as an agrarian senator if I did not rise in support of this bill.

Adopted. Ordered to third reading.

HB 322

relative to dogs pursuing game. Ought to pass. Sen. Porter for Recreation and Development.

Sen. KOROMILAS: Mr. President, HB 322 has three sections. The first section adds the words, "or other livestock" to the present law. "It shall be unlawful for the owner or custodian whose dog runs at large in territory inhabited by game birds or on land with sheep." Then the words are added "or other livestock." That is what the bill does.

Secondly, on page 2 of the bill, "increasing fines;" it increases the fine from \$5 to \$25 where the owner of dog, to whom notice has been given, such dog, when at large, has been discovered pursuing or harassing moose, caribou, deer or sheep or injuring any domestic creature, he shall be fined \$25.

With respect to the third section of the bill, it grants another category, immunity; that is for the police officer or dog constable. Now he can kill dogs that are maiming or in the act of maiming such creatures. Prior to this law, only conservation officers were allowed to do so without civil liability.

Sen. NIXON: Does the Committee feel, senator, that this bill will accomplish something to alleviate what has become a serious problem in New Hampshire, particularly this winter; that is of course, dogs pursuing and killing deer?

Sen. KOROMILAS: Yes.

Sen. SNELL: Sen. Koromilas, under the present law, if I was hunting a game and I saw a dog attacking a deer, by law, could I shoot this dog?

Sen. KOROMILAS: I think you could shoot him, but you wouldn't have any limit of liability; you would still be liable.

Sen. JACOBSON: What is the difference between close pursuit and pursuing; how is it measured?

Sen. KOROMILAS: Not being a dog fancier, I can't answer the question.

Sen. MCCARTHY: Did anyone appear in opposition to this bill?

Sen. KOROMILAS: Not to my recollection.

Sen. TOWNSEND: Did I understand you to say that this applied to domestic livestock? In other words, if a dog is chasing one of my sheep, can I shoot the dog without liability?

Sen. KOROMILAS: You would have to prove that your animal was under pursuit. You would have to go to court.

Sen. TOWNSEND: Does this law also permit, Sen. Snell for instance, to shoot a dog if he sees it chasing my livestock under the same conditions?

Sen. KOROMILAS: Yes. I think you would still have to prove in a civil case that the dog was chasing your livestock.

Sen. DOWNING: Did the Committee give any consideration to extending the protection liability to citizens?

Sen. KOROMILAS: I think that if this had been included, it would have gone to some other committee.

Sen. DOWNING: You extended the protection liability to the police and dog constable. Was there any consideration to extend this protection liability to *any* citizen witnessing a dog in close pursuit of an animal?

Sen. KOROMILAS: No.

Sen. LAMONTAGNE: Mr. President, I rise in support of the Committee amendment. I think the amendment is very

good because there are dogs that ought to be dealt with because they can be a menace.

Sen. NIXON: Just briefly to support the Committee Report; a statistic that might be of interest to the senators. I have been reliably informed that in the Town of New Boston alone, which has about 1500 residents, there were something in the vicinity of 15 to 20 deer killed by dogs this last winter season. The unfortunate part about it is the majority of the deer killed in this fashion are female deer, carrying fawns, which means a double death situation. I hope you will go along with the Committee Report.

Sen. SNELL: Mr. President, I rise in support of HB 322 but I do rise only with this one comment. I also am concerned that as a hunter I have the right to take the necessary action to save the life of an animal, especially if that dog was attacking such animal. I hope that we could include other people other than law enforcement officials.

Sen. TOWNSEND: I rise in support of the Committee Report, but at the same time, I must voice the sentiments that the Senator from the Fourth District has expressed in that I don't believe that this bill goes far enough. Within this past week, I had the occasion to observe two beautiful does being hotly pursued by two mongrel dogs. I assure this Senate that had I had a weapon with me, there would have been two mongrel dogs no longer in pursuit. This is a very inhumane thing to occur when these dogs are allowed to pursue the animals. For this reason, I believe we should make it permissible for citizens to shoot dogs on the spot when they are in pursuit of game.

Sen. DOWNING: I rise in support of the Committee Report. I think the bill represents a giant step in the right direction and ought to pass.

Sen. JACOBSON: What is the difference between "close pursuit" and "pursuing"?

Sen. TOWNSEND: I am not sure of the difference.

Sen. NIXON: Sen. Koromilas, is not it true that normally the shooting of any dog in a situation of either pursuit or close pursuit would probably be unwitnessed?

Sen. KOROMILAS: Yes.

Sen. NIXON: And in that case, wouldn't it be more probably true than otherwise that the person doing the shooting would be the only witness and probably testify that the dog was in fact, in close pursuit?

Sen. KOROMILAS: Yes.

Adopted. Ordered to third reading.

SPECIAL ORDER OF BUSINESS FOR 1:01

HB 2, providing that voting residence is not lost by being in a nursing or convalescent home or hospital. Ought to pass. Sen. Jacobson for Executive Departments, Municipal and County Governments.

Sen. LAMONTAGNE: Mr. President, I have had an opportunity to be able to meet with Reps. Gordon and Theriault. We met with Arthur Marx and went over the bill. We were assured that the word, "temporary" was in there and it took care of the problem of individuals leaving a ward and living with relations or friends. I don't feel it is necessary to amend this bill and I urge its passage.

Adopted. Ordered to third reading.

Sen. Jacobson moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until Tuesday, next at 1 o'clock in honor of Mrs. Agnes Gay of New London who celebrates her 100th birthday today. She is the mother of former State Senator, Paul Baxter Gay. And that we also adjourn in memory of Rep. Jacob Shulins of Newport who died two days ago and also that we adjourn in honor of our distinguished President, John R. Bradshaw who will have his birthday on Saturday.

Adopted.

LATE SESSION

Third reading and final passage

SB 3, restricting the sale, possession, and sniffing of model glue.

HB 233, relative to the definition of a child-caring agency.

HB 334, relative to the commitment of drug dependent persons.

HB 62, relative to bob houses.

HB 100, relative to enacting the Uniform State Feed Bill and repealing the Commercial Feed Law.

HB 322, relative to dogs pursuing game.

HB 2, providing that voting residence is not lost by being in a nursing or convalescent home or hospital.

Adopted.

Sen. Downing moved the Senate adjourn at 2:43 o'clock.

Adopted.

Tuesday
20Apr71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

CHRISTOS ANESTE . . . O Lord, who blessest those who bless Thee, and sanctifiest those who put their trust in Thee: save Thy people and bless Thine inheritance; preserve the fulness of Thy Church; sanctify those who love the works of Your righteousness; glorify them in recompense by Thy divine power, and forsake us not who hope on Thee. Give peace to Thy world, to Thy Churches, to Thy servants, to all civil authorities, to our Armed Forces, and to all Thy people: for every good and perfect gift is from above, and cometh down from Thee, the Father of Lights, and unto Thee we ascribe glory, thanksgiving, and worship: to the Father, and to the Son, and to the Holy Spirit: now and ever, and unto ages of ages. Amen.

(from the "Divine Liturgy" of the Greek Orthodox Church.)

Pledge of Allegiance was led by Sen. Spanos.

Sen. Stephen Smith in the Chair.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 173, establishing an Environmental Protection Division in the Office of the Attorney General and making an appropriation therefor. (Porter of Dist. 12 — To Resources and Environmental Control.)

SB 174, relative to education for all handicapped children. (Jacobson of Dist. 7; Tufts of Dist. 23 — To Education.)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 186, relating to an interstate boundary commission for the marine boundary between New Hampshire and Maine. (Judiciary)

HB 205, relative to health services in public schools. (Public Health, Welfare and State Institutions)

HB 578, to amend the New Hampshire higher educational and health facilities law. (Education)

COMMITTEE REPORTS

HB 454

amending the definition of an air navigation facility. Ought to pass. Sen. Townsend for Public Works and Transportation.

Sen. TOWNSEND: HB 454 would amend the Aeronautics Law where it defines an air navigational facility. The present law restricts funds for a navigational facility to landing areas, navigational aid or radio communication aid. There have been and there will be in the future, requirements for navigation aids which, strictly speaking, would not be covered by the present law. This bill would broaden the definition of a facility to include lighting and elevation warning systems which may be located some distance away from an existing landing area. It would also include fire protection facilities or other safety installations. In the past when the state has had money available for such projects the Comptroller and the Attorney General have ruled that the money could not be used for them as they did not come within the definition of a navigational facility. In

any event, such expenditures must have the approval of the Governor and Council.

Adopted. Ordered to third reading.

HB 407

to clarify the aircraft operating fee formula. Ought to pass. Sen. Townsend for Public Works and Transportation.

Sen. TOWNSEND: Mr. President, HB 407 amends the present aircraft operating fee formula. The fee formula is a tax paid by private owners of aircraft and is assessed in a manner similar to the automobile tax, that is by weight and book value. The change proposed by this bill would round off the fee in even dollars rather than add cents. It would streamline the book-keeping procedure of registering aircraft and would not cause any loss of revenue to the State.

The Director of the Aeronautics Commission, Mr. Sweeney, and his deputy, Mr. Davis, both appeared in favor of the bill. There was no opposition.

Adopted. Ordered to third reading.

HB 452

relative to federal aid for airport and airway development. Ought to pass. Sen. Townsend for Public Works and Transportation.

Sen. TOWNSEND: Mr. President, HB 452 changes the wording in the aeronautics laws to conform to the Federal Aeronautics laws. This is necessary because of a change that was made by the last session of Congress. The old law refers to Federal Aid to Airports or as was commonly referred to as F.A.A. assistance. The new wording is "federal aid for airport and airway development." This change is necessary so that we may properly apply for federal aid when it is available.

There was no opposition in the House or at the hearing. I respectfully request that the Senate support this bill.

Amendment adopted. Ordered to third reading.

SB 39

relative to acquiring park and recreation areas in towns. Ought to pass with amendment. Sen. Morrisette for Recreation and Development.

AMENDMENT

Amend the bill by striking out section 2 and inserting in place thereof the following new sections:

2 Town Acquiring Land for Public Recreation Activities. Amend RSA 31 by inserting after section 44 the following new section: 31:44-a Optional Procedure for Town. Any town proposing to acquire land within its municipal limits for public recreation activities may, at its option, submit its plans for the same to the Department of Resources and Economic Development of the State of New Hampshire. If the Department of Resources and Economic Development approves said plans, the town may then enter upon, for the purposes of survey leading to land description and appraisal, any land of any person. The town may proceed to acquire whatever easements and lands as are necessary to implement said plans as approved by the Department of Resources and Economic Development provided that a majority of the voters present and voting in favor of said acquisition at any regular or special town meeting called for the purpose of taking action thereon. In so proceeding, the selectmen or other duly authorized agents shall institute any necessary land taking in accordance with the provisions of section 92 of this chapter and anything contained in RSA 234 or in the statutes generally to the contrary notwithstanding, the decision of the selectmen of the town in which such land is situated shall not be vacated, and any subsequent appeal or other action by the owner or owners of such land shall be based solely on the amount of damages assessed.

3 Effective Date. This act shall take effect sixty days after its passage.

Sen. PORTER: Mr. President, the amendment listed in today's *Calendar* on page 28 has one error in it. I checked the original amendment and the third sentence says "any person proposing to acquire land" and in reality it should be "any town . . ."

The amendment deals with the ability of any town to acquire lands for parks and recreation areas and to go onto this land or any other land for the purpose of making a survey. The amendment was proposed by Dick Cheek of the Society for the Protection of Forests and had the approval of the sponsor of the bill.

Amendment Adopted. Ordered to third reading.

HB 302

relative to injury to domestic ducks or fowl by hunters. Ought to pass with amendment. Sen. Porter for Recreation and Development.

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Ducks and Fowl Included. Amend RSA 207:39-a (supp) as inserted by 1965, 179:1 by striking out said section and inserting in place thereof the following: 207:39-a Shooting Domestic Animals. Any person, while actually engaged in hunting or the pursuit of wild animals or wild birds, causing death, injury or damage to domestic animals, ducks or fowl shall be liable to the owner therefor. Any person, while actually engaged in hunting or in pursuit of wild animals or wild birds who shall cause death, injury or damage to such domestic animals, ducks or fowl through the discharge of a firearm or bow and arrow shall have his license to hunt revoked and he may not be granted a license to hunt for a period not to exceed five years. The provisions of this section shall not apply to a hunter killing or injuring his own or a borrowed animal or one used by another member of the same hunting party, other than being liable to the owner therefor, nor shall they apply to a hunter killing or injuring a domestic animal "gone wild." The Director of the Fish and Game Department shall be empowered to make revocation and suspension of the privilege of obtaining a license and determine the term of such suspension when, in his opinion, reasonable evidence of a violation of the provisions of this statute exist.

Sen. PORTER: Mr. President, the amendment to HB 302 changes the word "shall" to "may" in relation to granting a license. The total bill as we received it in the Senate relates to ducks and fowl being added into the liability for any hunter who injures these domestic animals.

Amendment Adopted. Ordered to third reading.

The CHAIR would state that the Chairman of the Committee on Ways and Means has requested that SB 99 be withdrawn and returned to the Committee if there are no objections from the members of the Senate.

SB 99 Recommitted.

SPECIAL ORDER OF BUSINESS AT 1:01

SB 66

requiring persons engaged in the hunting of big game animals to display on their person a minimum amount of color known as hunter orange. Ought to pass with amendment. Requested by Sen. Poulsen.

(See SJ 15 April for amendment)

Sen. POULSEN: I move that SB 66 be indefinitely postponed.

This bill requires that a hunter who is hunting big game with a rifle wear at least 400 s. inches of "hunter orange". While the intent of this bill is to protect hunters from other hunters and is without doubt well meant, the State of NH would be better off without it. In the first place, it is an infringement on human rights. Workers in constructions jobs often have to wear hard hats, but no one tells them what color hat, or shirt, or pants to wear. Many hunters prefer the old black and green color, which in the woods blends into the background. Others prefer the black and red which mostly shows as dark in the woods. The entire *style* of hunting for many hunters would have to change if this orange was compulsory.

Now, most hunters are good. They are carefully considerate people, both out of state and local hunters. But here, as everywhere else there are a few who are not so good. Nit wits, maybe. To these nit wits, by *implication*, are we not saying that all hunters are orange, and that anything that moves that is not orange is probably fair game? Surveyors, loggers, hikers may well become extinct. Or are we saying that no one but a hunter is allowed in the woods during the hunting season? Hunters are not in any danger of injury from loggers. Why make the loggers' danger from hunters any greater than it now is.

The safety aspect here — to protect hunters from other hunters could and should be done by safety training, not by infringing on personal rights, nor by implication, by endangering all others who are in the woods.

Sen. LAMONTAGNE: Mr. President, I received a telegram this morning from the Androscoggin Valley Fish and Game with a membership of 431 members and they are not in favor of SB 66 and they urge that it be inexpedient to legislate and I also support this.

Sen. TUFTS: Mr. President, I rise in support of the motion and hope the Senate will concur.

Sen. PORTER: Mr. President, I rise in opposition to the motion. My study of the reasons and background of the bill lead me to believe that it would be a good safety measure to have in New Hampshire. The idea was suggested to me by the New Hampshire State Rifle and Pistol Assoc. which constitutes a state-wide group of sportsmen. The background that I have been able to gather was tested thoroughly at Fort Devens, Mass. a few years ago. The tests included 13,528 different sighting tests. Under this test program which was conducted with 500 soldiers in woods very similar to what we have around New Hampshire, the tests were conducted over three months intervals with men who had their eyes tested for red or green deficiency. It is a fact that 8 percent of the men have a color deficiency. The tests that were conducted were done so with arch yellow, fluorescent orange, gentle red and black wool and green and black hunting shirts. Conclusively the tests showed that fluorescent orange showed up the best.

Since the adoption of the hunter orange requirement in Pennsylvania, there has not been one single hunting fatality of anybody wearing hunter orange. This bill would require big game hunters hunting with fire arms to wear at least 400 square inches of this color. The colors are specified in the bill so that we would have consistency throughout the state. The New Hampshire Fish and Game favor passage.

Sen. LEONARD: Do you have any statistics for last hunting season on injuries or deaths?

Sen. PORTER: Yes. On 3-19-70, a 14 year-old: self-inflicted. The first 7 are all self-inflicted. On 8-31, there were six boys involved in which shooting took place back and forth and one was killed. On 9-12-70 one fatality. Another person was wounded in the line of fire. On 10-11-70, in Bradford County someone was trying to scare a victim and shot too close. Another self-inflicted. Another between two gentlemen ages 21 and 16. On 10-31 a non-fatality between two young boys — five people were involved. On 10-31, two gentlemen, one 32 and one 70; the victim was mistaken for game. On 11-11, two gentlemen; one shot. On 11-12-70, a 15 and 29 year-old fatality. The person killed was mistaken for a deer. A self-inflicted and another who

had brown hip-boots on but was not a fatality. Three more self-inflicted. The last one of the year, a 15 year-old boy was killed being mistaken for game.

Sen. LEONARD: From your statistics, there were about four that were mistaken for game and the rest were self-inflicted?

Sen. PORTER: That is correct; four, plus or minus one.

Sen. POULSEN: In the State of Pennsylvania, which you quoted had no hunter fatalities of those wearing orange, do you have figures of how many non-hunters were shot?

Sen. PORTER: I have them in my notes if you care to have a recess so I could locate them.

Sen. POULSEN: No, that won't be necessary.

Sen. DOWNING: I am concerned with your very detailed description of just what hunter orange is. Do you have any idea how many manufacturers are now prepared to supply this fabric in the State of New Hampshire.

Sen. PORTER: There are roughly three manufacturers who can supply this.

Sen. DOWNING: These are in-state manufacturers?

Sen. PORTER: No, sir.

Sen. DOWNING: Well, how many in-state manufacturers are prepared to produce this fabric?

Sen. PORTER: I know of none.

Sen. DOWNING: Are you aware that the merchants in the state are already committed to their stocks of hunter clothing and supplies for the next hunting season?

Sen. PORTER: I am not aware of that, no.

Sen. LAMONTAGNE: The reason why I am so concerned about SB 66 is because the majority of all the hunters have already got new equipment. This would mean that they would have to purchase new clothing since many have red.

Sen. PORTER: Wouldn't it be possible for a hunter to purchase a 99 cent vest that he could simply apply over his clothing to meet these requirements?

Sen. LAMONTAGNE: Well, I think that the vest would not be enough to meet the requirements because you would have to have more than just this. The bill calls for 400 square inches and the vest would only cover about 300 inches.

Sen. PORTER: Couldn't the hunter couple the vest with a hat which would then meet the requirements and be visible from all sides?

Sen. LAMONTAGNE: It's possible.

Sen. SNELL: I rise in opposition to the motion. I am very much concerned about the safety factor and about the statement dealing with individuals already purchasing clothing for the coming hunting season. I happen to be one of those individuals but I certainly feel that the safety factor of just saving one life, and hopefully this is the purpose of this piece of legislation, and the purchases of a fluorescent hat and vest is certainly worth thinking about here this afternoon. If we do this, we may be fortunate in saving one or two lives. This is why I stand in opposition to the mention to indefinitely postpone.

Sen. ENGLISH: The cost of a vest and a hat probably wouldn't be much more than the cost of three 33 bullets, would it?

Sen. SNELL: Right, sir.

Sen. LAMONTAGNE: Senator, why doesn't SB 66 mention front, sides and back instead of 400 square inches?

Sen. PORTER: Are you suggesting that it would be better worded if it stipulated that the orange be visible from all sides?

Sen. LAMONTAGNE: It would be better if it said the hat and four sides. Then you would have a safety factor.

Sen. POULSEN: I think the point here is not the amount of red nor how the man wears it so much as the fact that we are making him wear it and by implication, making everyone who doesn't wear it fair targets. I think that anyone who wants to protect himself is encouraged to wear all the bright colors he wants to. Those people who are in the woods that don't wear orange are in more and more jeopardy if you distinguish that all hunters have to wear orange.

Division vote: 13 Yeas, 7 Nays, indefinite postponement adopted.

SUSPENSION OF RULES

Sen. R. SMITH: Mr. President, I move that the rules of the Senate be so far suspended as to permit the introduction of a committee report not previously advertised in the Journal.
Adopted.

COMMITTEE REPORT

SB 79

creating a legislative study commission to study and make recommendations relative to the expenditure of state funds for higher education and making an appropriation therefor. Ought to pass. Sen. R. Smith for Finance.

Sen. R. SMITH: SB 79 came out of the Education Committee last week and was referred to Senate Finance. There is no actual appropriation in the bill. What it does is permit members of the committee to be reimbursed for mileage, as other legislative committees are that work during the interim. It is the wish of the Senator from District Seven to get this on before May 1 in order that a study may be worked on and completed for submission to this session of the Legislature. As stated previously, there is no actual appropriation here and we feel that there is no necessity for us to hold a hearing on the bill.

Sen. ENGLISH: I would like to express my appreciation to the Finance Committee for their prompt action on this very important bill.

Adopted. Ordered to third reading.

COMMITTEE OF CONFERENCE REPORT

The Committee of conference to which was referred HB 31 'An Act relative to the filing of annual returns, false statements relative thereto and reservation of a name by a foreign corporation', having considered the same reports the same with the following recommendations:

That the House recede from its position of non-concurrence with the Senate amendment and concur in said amendment and

That the Senate and House each adopt the following amendment to the bill:

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

relative to filing of annual returns by corporations, reservation of a name by a foreign corporation, and monthly returns of quantity of alcoholic beverages sold.

Amend the bill by striking out section 4 and inserting in place thereof the following:

4 Request for Reservation of Name by Foreign Corporation. Amend RSA 300 by inserting after section 4 the following new section: 300:4-a Fee for Name. Any person who chooses a name for a foreign corporation which is available for use may in writing request the Secretary of State to hold such name for him until he has had an opportunity to prepare the record of organization. Upon such request, and upon payment of a fee of five dollars, the Secretary of State shall hold such name for use by the person requesting the same for a period of not exceeding sixty days. During such sixty-day period, no other person shall be permitted to register such name either as a trade or corporate name. The fee for such service by the Secretary of State shall be in addition to any other fees which may be required when the corporation papers are filed.

5 Effective Date. This act shall take effect sixty days after its passage.

Conferees on the part of the Senate:
Sen. Jacobson, District 7
Sen. Leonard, District 13

Conferees on the part of the House:
Rep. MacDonald, Merrimack 25
Rep. Dunlap, Strafford 14
Rep. Keefe, Rockingham 24

Sen. JACOBSON: Mr. President, when HB 31 passed the Senate with an amendment, through some accident, part of a House amendment dropped out in the drafting of the Senate amendment and therefore, the House did not concur because it wanted its amendment and the Senate and Senate Committee had no objection to this amendment. Therefore, a Committee of Conference was called and we all agreed that the House amendment should be included. That is what the report deals with; to reinstate the House amendment to HB 31.

Report accepted.

PERSONAL PRIVILEGE

Sen. SNELL: Mr. President, Members of the Senate:

Every now and then a situation arises to test our ability to put aside prejudice and to allow the other fellow an even break. But more and more, it seems to me, one of the greatest virtues missing from our pushing-and-shoving society is TOLERANCE. It was true in the case of Judge Carswell, who was rejected on the basis of a speech made many years ago; and there are those who are advocating this same policy in New Hampshire today.

The U.N.H. Search Committee for a new president was an outstanding group of volunteers. They gave up thousands of hours of *volunteer work* in search for a new president. They examined all facts, they came to a conclusion. An honorable group of dedicated individuals made a difficult decision. They assumed a duty and performed it.

Dr. Thomas N. Bonner was not my candidate for the position of University President. I had hoped for another nearer-the-grass-roots individual. However, now that he has been selected by the Board of Trustees, it seems to me that the fair thing to do is at least to allow the man the opportunity to prove his worth.

The trustees of the University of N.H. are its governing body and they have, by a large majority, chosen Dr. Bonner from among 400 candidates. Certainly, they must have been impressed. When I spoke with some of the Board about this, they told me that Dr. Bonner made such a favorable impression on them that they were impelled to cast their ballot for him.

As Dr. T. N. Bonner, himself, said last week, "As president of U.N.H. I intend to work closely with political leaders of all shades of opinion toward the common objective — enabling the university to better serve the citizens of the state."

The citizens of N.H. must set a fine example of tolerance and open-mindedness. We must listen to the opinions of others, consider them fairly; but reserve the right to disagree in a forthright and friendly manner. We must respect the right of others to have an opposing viewpoint. If we could learn this lesson, it would go a long way to help eliminate the world-wide problem of not getting along together.

The rest of us have never met Dr. Bonner. We do not know him. Isn't it the American way to at least let him prove himself?

Let's give Dr. Bonner a chance!

Sen. JACOBSON: Mr. President: As you are aware, I stand in no position of leadership nor am I consulted on matters of State. As I understand it, the reasons are that I cannot be trusted and that I'm Jewish; as alleged last Fall in the race for Senate President. As to my ethnic origins, while I have great respect for the Jewish people, especially their courage in their desire to be free, I happen, however, to be of relatively pure Viking origin, and possibly there was some confusion, since Vikings are known for their courage and daring as well. As to my untrustworthy character, I find a curious ambivalence, I am counted trustworthy when the power structure wants a vote for a particular bill, but when there be some opportunity wherein I may be qualified, I am politely ignored, and if I make inquiry, I am, with equal politeness, told to duck my head in a rain barrel. Yet, in spite of my wetness, I do have a responsibility to speak out on public matters. In this connection, I am particularly disturbed about a great deal of loose talk on important public matters.

I am upset that an important leader in my party took upon himself to attack the president-designate of our University before he has had full opportunity to develop his contribution to New Hampshire. I have always been an opponent of guilt by association. To judge a man because of a prior association legitimately established for a proper purpose, without full opportunity to demonstrate his ability independent of that association, is a practice that I cannot support.

Again, I find in the newsprint quotations from political leaders that if HB 383 passes, there will be a reduction of the property tax. I find no evidence to support this. As far as I know, and I am willing to stand corrected, there will not be one penny reduction in tax rate. Indeed, in many instances, there may be an increase in property taxes due to the repeal of the $4\frac{1}{4}\%$ dividends and interest which now returns to the cities and towns. Except for those who may benefit from the circuit breaker concept, all other citizens will face an increased tax burden.

Again, I am distressed about the loose talk about what percentage or rank that New Hampshire may stand on its public expenditure of various departments of government. Variouslly the State is ranked 47th or 48th or 49th. Do you know that if we had 3000 University students for whom the State paid their entire cost of their education, on the *per capita* basis, New Hampshire would rank 50th, in contribution to higher education? You can readily see the complete irrelevance of ranking on the *per capita* basis.

Again, I am disturbed about loose and threatening talk about a special session emanating from the Executive Office if the Legislature does not accommodate itself to the Executive proposal. I do not like threats. As far as I know, the Constitution vests in the Legislature the power to determine both the spending and the revenue sources. I shall do my best to fulfill that responsibility and hopefully without threat.

I am also concerned about loose talk about priorities. I find much talk but no clear delineation of what comes before what. If there are to be priorities, some items must take precedence over others. Until we do this, we can not legitimately speak of priorities.

Sen. FERDINANDO: I serve notice of reconsideration on SB 66.

Sen. POULSEN: Having voted with the majority, I move reconsideration at this time on SB 66.

Sen. PORTER: I rise in support of the motion and urge my fellow senators to reconsider their action on SB 66 so that I might move to recommit it to Committee for further action.

Division vote taken, the result being 11 Yeas, 9 Nays, the motion for for reconsideration was adopted.

Sen. PORTER: Mr. President, I move that SB 66 be re-committed to the Committee on Recreation and Development. It has been advised that certain aspects of this bill were not to the liking of various members of this Senate and it would be my point, when the bill returns to the Committee, to examine it again and perhaps make suggestions for amendments to improve such things as reductions in size requirement and further to provide an extended period for the adoption of the bill so that

New Hampshire manufacturers might be able to gear up to the manufacturing devices.

Sen. POULSEN: Mrs. President, I rise in opposition to having this bill recommitted. This bill, no matter how it is amended, could still only be an infringement on human rights. We still are telling people what color they must wear to protect themselves from themselves. The same concept has been outlawed as in Michigan with regards to motorcycle helmets. These matters only protect the wearer; not the public.

Sen. NIXON: I rise in support of the motion to recommit SB 66. I think that, from my limited experience in the Senate, when a committee chairman has asked for this courtesy, it is extended to him. Apparently, Sen. Porter feels that his committee can reword this bill. The main argument opposing recommitment seems to be that whatever form the bill comes out of committee, to the extent that it requires a particular type or color clothing or apparatus or apparel to be worn, it would infringe upon human rights. The unfortunate part about that equation is every law we pass affects and limits human rights to some extent in that the human rights of others are found to predominate. We are talking about the rights of two groups — the rights of hunters to hunt without wearing orange and the rights of other people in the woods to be better protected from negligence causing injury or death. I do feel that the bill ought to go back to the Committee.

Sen. DOWNING: I support the statements of Sen. Nixon. There is a tradition involved and the Committee has asked that a bill be recommitted.

PARLIAMENTARY INQUIRY

Sen. JACOBSON: I have not received a 1971 book as yet, but in 1969, under Rule 9, it says, "a question which is postponed indefinitely shall not be acted upon during the same biennium except whenever two-thirds of the whole number of elected senators shall, in division, take a vote in the favor thereof." Does that hold now?

The CHAIR would state that the motion of reconsideration is a motion which may be carried on a simple majority. It is not the period of requesting reconsideration or acting upon reconsideration — the time limit has not lapsed, therefore, a simple majority would have to prevail.

Sen. GARDNER: Mr. President, I voted for indefinite postponement, but I feel that it is only a matter of courtesy when one asks that the bill be recommitted.

Adopted.

SB 66 recommitted to Recreation and Development.

Sens. Spanos and Nixon moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions be captions only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock in full support of the administration of President Thomas Bonner with the fervent hope that he be a good president and that the University's standing remain forever the highest.

Adopted.

LATE SESSION

Third reading and final passage

HB 454, amending the definition of an air navigation facility.

HB 407, to clarify the aircraft operating fee formula.

HB 452, relative to federal aid for airport and airway development.

SB 39, relative to acquiring park and recreation areas in towns.

HB 302, relative to injury to domestic ducks or fowl by hunters.

SB 79, creating a legislative study commission to study and make recommendations relative to the expenditures of state funds for higher education and making an appropriation therefor.

Adopted.

Sen. Poulsen moved the Senate adjourn at 2:21 o'clock.

Adopted.

*Wednesday**21Apr71*

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

We thank Thee, our GOD, that Thou art the fountain of wisdom and that reverence for Thy Name is the beginning of understanding. We rejoice that Thou art the GOD of all truth so that truth itself is never an enemy of Thine. Grant that our fear may be not of truth but of falsehood, not of knowledge but of superstition, not of sound judgement but of harmful prejudice. Guide us in the paths of justice and cooperation. May we be content with nothing less than the joy of public service that befits the public welfare and trust. Let understanding and forbearance prevail among us as we seek Thy will and Thy Way. Amen.

Pledge of Allegiance was led by Sen. English.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 175, relating to arrest without a warrant by law enforcement officers. (Jacobson of Dist. 7 for the Judicial Council — To Judiciary.)

SB 176, relating to a Department of Forensic Medicine. (Porter of Dist. 12 — To Public Health, Welfare and State Institutions.)

SB 177, relative to special motor vehicle registration numbers and the driver education fund. (Townsend of Dist. 5 — To Public Works and Transportation.)

SB 178, authorizing the Liquor Commission to extend certain provisions relative to liquor licenses. (Foley of Dist. 24 — To Ways and Means and Administrative Affairs.)

SJR 15, providing for studies for direct access from the F. E. Everett Turnpike to the central business district of Manchester. (Morrissette of Dist. 16, Ferdinando of Dist. 14, Mc-

Carthy of Dist. 17, Provost of Dist. 18 — To Public Works and Transportation.)

CACR 30, Relating to: The Highway Fund. Providing that: The Revenue In The Highway Fund Shall Not Be Restricted Exclusively for Highways. (Spanos of Dist. 8 — To Public Works and Transportation.)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 90, relative to the purchase of waters or lands by the Director of Fish and Game and making an appropriation therefor. (Resources and Environmental Control)

HB 172, relating to public disposal facilities. (Public Health, Welfare and State Institutions)

HB 325, authorizing the Water Resources Board to control the release or withholding of stored water if necessary for the public health or safety. (Resources and Environmental Control)

HB 379, increasing the penalties for operating a motor vehicle after revocation or suspension of license. (Judiciary)

HB 531, permitting various types of financial institutions in New Hampshire to organize and/or participate in service corporations. (Banks, Insurance and Claims)

HB 551, clarifying the duties of the Deputy Attorney General. (Judiciary)

HB 577, relative to reporting of fires to the state fire marshal's office. (Public Works and Transportation)

HB 599, providing for volunteer probation counsellors. (Judiciary)

HB 658, relative to anatomical gifts. (Judiciary)

HB 678, to legalize the Haverhill Town Meeting of March 9, 1971. (Executive Departments, Municipal and County Governments)

HB 214, making supplemental appropriations for the expenses of the Department of Health and Welfare, industrial school and the state prison for the fiscal year ending June 30, 1971. (Finance)

ENROLLED BILLS COMMITTEE

HB 82, relative to the expenditure of funds in urban renewal programs. Ought to pass with amendment. Sen. English for the Committee.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

An Act

relative to financial reports of housing authorities.
Amendment adopted.

ENROLLED BILLS REPORT

HB 2, providing that voting residence is not lost by being in a nursing or convalescent home or hospital.

HB 62, relative to bob houses.

HB 63, creating an interim committee to study the problems of disposing of beverage bottles and cans.

HB 64, empowering the Pesticides Control Board to prohibit or restrict the sale and use of certain pesticides.

HB 67, providing for Port Authority appointed pilots to pilot certain vessels in the Piscataqua River and harbor.

HB 100, relative to enacting the Uniform State Feed Bill and repealing the Commercial Feed Law.

HB 194, relative to payment of vacation wages.

HB 224, relative to number of ballots to be printed for primary elections.

HB 231, requiring that the articles of agreement of voluntary corporations and associations provide for the disposition of the assets of such corporations upon their dissolution.

HB 233, relative to the definition of a child-caring agency.

HB 292, conveying a certain portion of land which was formerly part of Silver Lake in the town of Madison to J. Donald Hayes and Dorothy V. Hayes.

HB 298, to provide for recording of short form leases.

HB 318, relating to the Town of Gorham.

HB 322, relative to dogs pursuing game.

HB 334, relative to the commitment of drug dependent persons.

HB 345, to increase the permissible maximum dollar limit of certain force account contracts.

HB 407, to clarify the aircraft operating fee formula.

HB 446, relative to the membership of school boards in certain school districts.

HB 452, relative to federal aid for airport and airway development.

HB 454, amending the definition of an air navigation facility.

HJR 12, making a supplemental appropriation for the racing commission.

SB 6, providing that when highway work requires relocating municipally owned underground utility facilities the governmental agency doing the work shall pay for the trenching and backfilling.

SB 40, relative to petitioning for articles to be placed in a town or school warrant and providing a penalty.

HB 274, providing for certain transfers in the appropriations for fiscal year 1971 for the Division of Vocational Rehabilitation.

Sen. Provost
For the Committee

HOUSE ADOPTION OF COMMITTEE OF CONFERENCE RECOMMENDATION ON

HB 31, relative to filing of annual returns by corporations, reservation of a name by a foreign corporation, and monthly returns of quantity of alcoholic beverages sold.

HOUSE CONCURRENCE TO SENATE AMENDMENTS

HB 62, relative to bob houses.

HB 274, providing for certain transfers in the appropriations for fiscal year 1971 for the Division of Vocational Rehabilitation.

HB 233, relative to the definition of a child-caring agency.

COMMITTEE REPORTS

SB 98

increasing the state guarantee for certain school construction programs. Ought to pass. Sen. English for Education.

Sen. ENGLISH: Mr. President, SB 98 increases the state guarantee for certain school construction programs. This is not new legislation but increases the amount it now provides from \$20 million to \$40 million dollars. The provisions of the original legislation extends to bonds or notes issued in accordance with the school building authorities recommendation and approved by the Governor and Council, the unconditional state guarantee.

In effect, this means that the borrowing can be done at the low rate prevailing for bonds carrying a state guarantee.

Sen. MORRISSETTE: Would towns whose enrollment increases 10 percent a year qualify?

Sen. SPANOS: They would fall under the category of this statute. The measure which provides for those schools that are involved in dual enrollment and are building and those schools which have an increase of 10 percent in a year was added in the last session of the Legislature in order to take care of the situation where the parochial school problem is.

Mr. President I move the following amendment:

AMENDMENT

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Effective Date. This act shall take effect upon its passage.

Sen. SPANOS: Mr. President, With your kind indulgence, I would like to speak on the amendment and the bill at the same time. This bill is sponsored by Sen. Jacobson and myself.

The function of the N. H. School Building Authority is to consider applications by School Districts for a state guarantee of their construction bonds. This state guarantee means a lower interest rate to the towns and cities which to date has meant savings totaling one-half million dollars — which in turn means reduced taxes back home.

Originally the Authority considered only applications made by A.R.E.A. or Cooperative School Districts with a 50% guarantee by the state, and the total state guarantee was pegged at 20 million dollars by statute.

Last year at the Special Session, in order to meet the non-public school problem, the law was expanded to include school districts entering into dual enrollment programs and school districts where enrollments increased by 10% or more in any one year. At the same time, the state guarantee portion was raised from 50% to 75%.

As of June 1970, the Governor and Council, upon recommendation of the N.H.S.B.A., had approved state guarantees amounting to 15 million dollars. In January of this year, 4 million dollars was added in state guarantees on bond issues for Berlin and the Derry Coop School District. On the 18th of this month, Pembroke has applied for a \$780,000.00 guarantee.

You can see that this has brought us to the maximum limit of 20 million dollars and right now there are other school districts readying applications for a state guarantee. A survey by the Board of Education indicates estimated prospective state guarantees of an additional 19 million dollars in state guarantees. Some of the districts involved are: Belmont, Claremont, Contoocook-Valley, Hollis, Jaffrey-Rindge, Timberlane, Winnisquam Regional, Monadnock, Newfound, Oyster River, Rochester and Londonderry. That is why we ask for an increase of the state guarantee from 20 to 40 million dollars. It costs us nothing and saves us much.

I ask for your support of the bill and the amendment because as you see, we have reached our statutory limit and we should not penalize the communities waiting in the wings.

Sen. JACOBSON: Mr. President, I just want to add my support to what the distinguished minority leader has said and especially to emphasize the critical time factor. I hope that the Senate will support both the amendment and the bill.

Sen. KOROMILAS: Sen. Spanos, on page 2 of the bill, the last sentence in section 1; would you explain to us what that is?

Sen. SPANOS: That is in the original statute and I must admit that I haven't looked at it myself and couldn't explain it at this moment.

Amendment Adopted. Referred to Finance.

HB 339

relative to the construction of area schools and additions thereto. Ought to pass. Sen. English for Education.

Sen. ENGLISH: Mr. President, HB 339 has to do with the debt limit of receiving AREA schools and again it is an extension of existing legislation. This extension would include the purchase of school buildings.

The State Department of Education states that the proposed amendment merely gives a receiving district the advantage of having only that proportionate share charged against its bonding limit for indebtedness already existing at the time that an AREA school was formed, as would be charged against its bond limit if new construction was necessary.

The Department adds that such a change will help certain receiving districts and should act as an encouragement for districts to enter into AREA plans.

Adopted. Ordered to third reading.

HB 201

relative to donation of blood by minors. Ought to pass with amendment. Sen. Koromilas for Public Health, Welfare and State Institutions.

AMENDMENT

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Capacity to Consent. Amend RSA 571 by inserting after section 24 the following new section; 571:24-a Minor Blood Donors. Any minor of sound mind who has attained the age of

eighteen years or any married minor regardless of age may donate blood in any voluntary and noncompensatory blood program without the necessity of obtaining the consent of any parent, guardian, or any other person having the care and custody of such minor.

Sen. KOROMILAS: Mr. President, all the amendment does is remove the words, "or receive medical, dental or surgical treatment." These words were removed from the original bill because the title talks about donation of blood by minors. Under the bill as it came in from the House, it would allow a minor between 18 and 21 to give blood. There had been problems of collecting blood because if minors between the ages of 18 and 21 live with their parents, they have to get parental permission. This bill would allow minors to give blood with parental consent.

What was included in this bill was another concept, that is it added the words, "To receive medical, dental or surgical treatment," not relating to the question of blood donation. In other words, if these words were allowed to remain in the bill, it would give the authority to the doctor or dentist to give treatment to a minor without parental consent.

Amendment Adopted.

Sen. MORRISSETTE: I would like to complement the Committee on their report. I feel that this is a good thing in that it helps the blood program and shows young adults that they may do something for society. I feel that they will be very receptive to it and be more responsible than many older adults.

Ordered to third reading.

HB 327

to increase the compensation of the Board of Hairdressers, increase fees, and establish new licensing standards. Ought to pass. Sen. Gardner for Public Health, Welfare and State Institutions.

Sen. GARDNER: Mr. President, in the first section there is an increase in fees from \$10 to \$20 and in section 2, there is a new sentence added "The scope and content of the examination shall be established by the Board." In section 3, under qualifications, in the original law, it is three years of actual employment in a licensed shop. This is reduced to one year. In section 3, the temporary permit is increased from \$10 to \$20.

These increases are requested to increase the salary of the Board from \$10 a day to \$20 a day. They feel that these hairdressers give up a whole day's time and their duties are to hold examinations, to inspect shops and to furnish a license to each licensed hairdresser, and twice a year, they must conduct examinations.

One of the increases is also to allow for national testing. Most states have national testing at the present time and if they have these national testing examinations, these students who graduate will be able to operate in any state. That is the reason for the changes.

Sen. MORRISSETTE: Sen. Snell, I made a study of the Governor's budget and I was quite concerned that a few of the departments that should be self-supporting. Is this department self-supporting?

Sen. SNELL: Yes, this department is 100 percent self-supporting through the fees which Sen. Gardner mentioned. The increase will affect the Board.

Sen. GARDNER: There will be money coming back to the state and a surplus of general funds.

Adopted. Referred to Finance.

SB 53

providing for a study of and the preservation of the ledges on Profile Mountain and making an appropriation therefor. Ought to pass with amendment. Sen. Porter for Resources and Environmental Control.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

providing for a monitoring program of and the preservation of the ledges on Profile Mountain and making appropriations therefor.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Monitoring Program. There is hereby appropriated the sum of thirty thousand dollars for the biennium ending June 30, 1973 to be expended by the Commissioner of Resources and

Economic Development with the approval of the Governor and Council.

I. To install and operate monitoring devices and equipment to ascertain the condition and changes in the ledges on Profile Mountain known as The Profile; and

II. To take readings at least five times each year of said devices; and

III. To ascertain the best practical means available to preserve and protect said ledges; and

IV. To carry out the purposes of this section to employ or contract with professional personnel as he deems advisable.

2 Protection. There is hereby appropriated the sum of twenty thousand dollars for the biennium ending June 30, 1973 to be expended by the Commissioner of Resources and Economic Development with the approval of the Governor and Council:

I. To conduct precise continuing measurements of the ledges on Profile Mountain known as The Profile and to carry on continuing repair and upkeep of the same and to install and provide for supporting equipment for the same.

3 Effective Date. This act shall take effect sixty days after its passage.

Sen. PORTER: Mr. President, the amendment proposed to SB 53, a bill proposed by Sen. Tufts, changes the character of the bill and lowers the appropriation request. The original appropriation on the original bill asked for \$180,000 to conduct a study program and certain construction. The amendments define the study as a monitoring program and also reduce to a certain degree, the construction authorized. This entailed several discussions with the members of DRED, the Commissioner of Public Highways and under the rules, this would still be referred to Finance to be further studied and reviewed.

Adopted. Referred to Finance.

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock.

Adopted.

LATE SESSION

Third reading and final passage

HB 339, relative to the construction of area schools and additions thereto.

HB 201, relative to donation of blood by minors.
Adopted.

Sen. Townsend moved the Senate adjourn at 1:50 o'clock.
Adopted.

Thursday

22 Apr 71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

O GOD, our loving Father, thou who art the giver of our years and days, we thank thee for bringing us together, calling us from our smaller worlds to this larger place of service and responsibility. Give to each of us such vision to understand the structures of government we have built and those we have inherited. Enable us to find viable solutions to the visible problems that confronts our "Granite State". Make us sensitive to human need, the needs of our citizens and the needs of our State. Being alert to Thy call and obedient to Thy Word, may we be builders together. Amen.

Pledge of Allegiance was led by Sen. Leonard.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 179, limiting the scope of inquiry directed to applicants for state employment and state licensing. (Nixon of Dist. 9 — To Ways and Means and Administrative Affairs.)

SB 180, relative to the inclusion of certain pupils from partially closed nonpublic schools in the computation of state aid due school districts. (Jacobson of Dist. 7 — To Education.)

SB 181, restricting jurisdiction of state police in towns of less than ten thousand population. (Porter of Dist. 12 — To Executive Departments, Municipal and County Governments.)

SB 182, providing that the designee of the Speaker of the House or the President may sign bills. (Smith of Dist. 3 — To Ways and Means and Administrative Affairs.)

SB 183, relative to the allowable width of ready-mix cement vehicles. (Lamontagne of Dist. 1 — To Public Works and Transportation.)

SB 184, increasing the allowable weight of certain vehicles. (Lamontagne of Dist. 1 — To Public Works and Transportation.)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 348, enabling the Department of Fish and Game to recover damages for loss of fish, other aquatic life, wildlife or their habitat due to water pollution. (Resources and Environmental Control)

HB 472, establishing the time when beaver may be trapped in Coos County. (Recreation and Development)

HB 654, relative to the associate degree programs of Keene and Plymouth State Colleges. (Education)

HB 675, eliminating the requirement of publishing the advertisement of sale of state guaranteed sewer bonds and notes. (Executive Departments, Municipal and County Governments)

HJR 40, to evaluate the utilization of state owned vehicles. (Public Works and Transportation)

HOUSE CONCURRENCE

HB 201, relative to donation of blood by minors.

HB 302, relative to injury to domestic ducks or fowl by hunters.

HOUSE ADOPTION OF ENROLLED BILLS
AMENDMENT

HB 82, relative to financial reports of housing authorities.

COMMITTEE REPORTS

HB 309

relative to unemployment compensation. Ought to pass with amendment. Sen. R. Smith for Finance.

AMENDMENT

Amend section 9 of the bill by striking out the same and inserting in place thereof the following:

9 Coverage of State Employees. Amend RSA 282:1-H (4) (q) as inserted by 1957, 313:3, by adding at the end thereof the following: (except that this provision shall not apply to service performed by an individual in the employ of a state hospital and/or an institution of higher education;) so that said subparagraph as amended shall read as follows: (q) Service performed for this state by any individual who is not a classified employee in the state classified service; except that this provision shall not apply to service performed by an individual in the employ of a state hospital and/or an institution of higher education;

Amend section 10 of the bill by striking out the same and inserting in place thereof the following:

10 Coverage of State Employees. Amend RSA 282:1-H (4) (r) as inserted by 1957, 313:3, by adding at the end thereof the following new sentence: (This provision shall not apply to service performed by an individual in the employ of a state hospital and/or an institution of higher education.) so that said subparagraph as amended shall read as follows: (r) Service performed by seasonal or temporary classified employees as herein defined. Seasonal classification in the state employment classification system shall mean service in a position the need for which may be reasonably anticipated as likely to recur each year for a varying period of time. Temporary classification in the state employment classification system shall mean service of a qualified person to a position that is known to be of limited duration. This provision shall not apply to service performed

by an individual in the employ of a state hospital and/or an institution of higher education.

Amend section 34 of the bill by striking out the same.

Amend the bill by changing the numbers of the sections as follows: 35 to 34; 36 to 35; 37 to 36; 38 to 37.

Amend the bill by striking out the newly numbered section 37 and inserting in place thereof the following section:

37 Effective Date. The sections of this act shall take effect as follows:

I. On February 6, 1971 sections 18, 26 and 32;

II. On February 20, 1971 section 33;

III. On April 1, 1971 sections 1, 3, 4, 13, 14, 17, 19, 20, 21, 22, 23, 27, 28, 29, 31, 35 and 36;

IV. On July 1, 1971 section 34;

V. On January 1, 1972 sections 2, 5, 6, 7, 8, 9, 10, 11, 12, 15, 16, 24, 25 and 30.

Sen. R. SMITH: We had a public hearing on this bill and tried to confine ourselves to section 35, which was the appropriation figure. We felt that the \$40,000 figure, which was inserted in the bill, while a ball park figure, should suffice. We did find, however, in processing the bill, that two technical amendments had to be made. The amendments are on page 31 of today's *Calendar*. I will try to explain them, but after working on this bill, I think I can understand why D.E.S. has two lawyers working down there.

As a result of the amendment made on the floor by Sen. Spanos, the effective dates were inserted in the wrong place. As the bill stood then, sections 36 and 37, which were the sections affected by the floor amendment, were made effective February 6, 1971 and it should have been April 1, 1971. The first part of the amendment corrects this and puts the sections in the proper effective sequence.

The section part of the amendment pertains to section 34 of the bill as we received it. Section 34 repeals part of the RSA 282:1 H4 Q&R. It says it repeals them but only attempts to repeal them to a certain extent. It qualifies the repeal. We

thought it would be better to strike out section 34 and write the intent of 34 into 282:1 H4 Q&R. The only thing that has been added in is that the amendment leaves the RSA exactly as it is only it adds, under Q, "except that this provision shall not apply to service performed by individuals in the employ of the state hospital or an institution of higher education, which is what the federal mandate was.

As far as R is concerned, it also leaves R exactly as it is under RSA, only it adds the sentence, "this provision shall not apply to service performed by individuals in the employ of a state hospital or institution of higher education" which, again, is the intent of the federal mandate.

I hope I have made these clear. When we discussed these amendments, I was able to contact the Vice-Chairman of the Ways and Means Committee who processed the whole bill in order that he would be a party to it also. I think that he fully understands the intent of the bill, which is not changed, and there is no substantive change but rather a technical correction.

Amendment adopted. Ordered to third reading.

SB 92

authorizing law enforcement officers to require weighing of motor vehicles. Ought to pass. Sen. Downing for Public Works and Transportation.

Sen. DOWNING: SB 92 would give the law enforcement agencies authorization to carry portable scales and to compel the truckers to submit to weigh-in. Right now, this is not required and while it hasn't been a problem up to this past year, this past year there has been several abuses and it appears that if legislation isn't passed to correct it, it could become quite abusive and we would have many unsafe vehicles on the road. I urge your acceptance of the report.

Adopted. Ordered to third reading.

HB 47

relative to traffic surveys and truck weight surveys. Ought to pass. Sen. Townsend for Public Works and Transportation.

Sen. TOWNSEND: Mr. President, HB 47 was amended in the House to change the section number in the RSA under which this bill would be entered. The bill, itself, spells out the authority for conducting traffic and truck surveys. The

data obtained by the surveys is vital to highway planning and is a requirement for obtaining federal funds for highways. The bill contains no police powers and surveys are made for engineering and planning only. The Department of Public Works and Highways support the bill and there was no opposition. Your Committee recommends its passage.

Adopted. Ordered to third reading.

HB 115

relative to the control of junkyards on the interstate, federal-aid primary and turnpike highway systems. Ought to pass. Sen. Downing for Public Works and Transportation.

Sen. DOWNING: Mr. President, HB 115 is merely updating the present statute after experience with it. Three areas of change, primarily, include the junkyard stipulation that it had to be a certain number of feet and visible and the change from "and" to "or" so that if it would be visible, regardless of the distance back from the highway, they would need to screen it and protect it. The other change would be to add turnpikes to this along with the interstate highway. The most significant change is that it gives the law enforcement agency the right to enter a junkyard to inspect it. I urge its adoption.

Adopted. Ordered to third reading.

HB 328

repealing the statute providing that the Labor Commissioner shall establish the minimum wages paid by the state and its political subdivisions in the construction of public works and enacting an anti-kickback in Public Works statute. Ought to pass. Sen. Poulsen, Majority, Public Works and Transportation. Ought to pass with amendment. Sen. Downing, Minority, Public Work and Transportation.

Sen. POULSEN: HB 328 is designed to eliminate the Little-Davis-Bacon Act by which the state and municipalities have to pay the wages set for the Labor Commissioner as a minimum wage on construction jobs that are funded, either by the state or by the towns, This bill was originally put in to protect local contractors from competition that came in from Massachusetts as well as other places. As it is now, it's working the other way. Local contractors frequently won't bid on jobs because they don't want to get into the union wage bid. It raises the very devil with their own crew. They have to pay a man a

higher wage for working on one job than they would if he worked on another. It creates a great problem; it costs the towns, particularly, a lot more money for construction of, for example, libraries, new town buildings, fire stations. We don't think it is fair and that a majority of the working people of New Hampshire, both union and non-union, are paying for this special privilege which is granted to workers of a few building trade unions. We would like to see this passed today without amendment. Thank you.

Sen. MCCARTHY: Mr. President, I move that HB 328 be made a Special Order of Business for next Wednesday, April 28, 1971 at 1:01 o'clock. My reason for requesting this is the fact that I learned this afternoon that HB 328 has been amended and after looking at the amendment, I think it is a very significant one which will affect many people. I think that the bill, itself, and the amendment are bound to have a tremendous impact on the economy of New Hampshire and the lives of many of our people. I don't think that we should be too hasty in taking any action on this. For myself, I would like to have more time to examine the ramifications of the amendment and to encourage my fellow senators against being hasty this afternoon and we should investigate it thoroughly.

Sen. MORRISSETTE: I think that it would be wise to give ourselves more time to scrutinize this amendment. I have an amendment, myself, that I would like to have considered. I would like an opportunity to discuss this matter further.

Sen. PORTER: Sen. McCarthy, you made reference to an amendment but it says nothing of an amendment in the *Calendar*. Could you explain this.

Sen. MCCARTHY: The amendment is on page 25. It talks of limiting certain types of construction and also keying in with federal legislation.

PARLIAMENTARY INQUIRY

Sen. LEONARD: Do I understand that the amendment in the *Calendar* is on the minority report and not the majority report?

CHAIR: That is correct.

Sen. NIXON: I rise in support of the motion that the bill be made a Special Order of Business for next Wednesday. I was not aware that this bill was coming out on the floor today, and perhaps it is my own fault. It wasn't noticed in the *Calendar* yesterday although it has met the requirements of one-day's notice, but I am sure that all the senators here received a lot of correspondence both pro and con with respect to this bill. There are some substantial and some complex monetary questions here. A claim has been made that this bill, if passed, will save \$10 million a year for the taxpayers. That claim is reputed in some quarters with statistics. I would like to have a weekend to look through this material thoroughly and I think all of us would benefit from giving this entire matter further consideration.

Adopted.

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until Tuesday next at 1 o'clock in honor of National Secretaries' Week and to recognize their outstanding contributions.

Adopted.

LATE SESSION

Third reading and final passage

HB 309, relative to unemployment compensation.

SB 92, authorizing law enforcement officers to require weighing of motor vehicles.

HB 47, relative to traffic surveys and truck weight surveys.

HB 115, relative to the control of junkyards on the interstate, federal-aid primary and turnpike highway systems.

Adopted.

Sen. Brown moved the Senate adjourn at 1:40 o'clock.

Adopted.

*27Apr71**Tuesday*

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

Eternal God, Creator and Sustainer of all life, perpetrator of Spring and all its pending joys — in humility we pause to seek Thy Guidance in the exercise of our legislative duties and responsibilities. May Thy Truth be our vision and Thy wisdom our strength and courage. We rejoice with Those of our number who have received recognition for their good works. We sorrow with those whose lives have been touched by sorrow or sadness. Enable us in the midst of these pressing and difficult times to build bridges of understanding, to be instruments of service, and to promote peace and justice. Watch over us, O God, keep us safe from error, active in our honest endeavors, as we build a better world in Thy Name. Amen.

Pledge of Allegiance was led by Sen. Brown.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 185, increasing the exemptions from attachment and execution of certain property. (Spanos of Dist. 8 — To Judiciary.)

SB 186, increasing the radius of operation and the fee for special operation permits for certain heavy motor vehicles. (La-montagne of Dist. 1 — To Public Works and Transportation.)

SB 187, relative to service of process against foreign corporations. (Nixon of Dist. 9 — To Judiciary.)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 109, relative to the power of conservation officers to

board boats in connection with administration of marine laws. (Recreation and Development)

HB 310, relative to recoveries by the division of investigation of accounts. (Ways and Means and Administrative Affairs.)

HB 477, relative to fees for registration as professional engineer. (Executive Departments, Municipal and County Governments)

HB 518, relative to the salary of the Carroll County Sheriff. (Executive Departments, Municipal and County Governments)

HB 519, relative to the fees charged in the registry of deeds of Carroll County. (Executive Departments, Municipal and County Governments)

HB 671, to provide for historic districts in towns without zoning. (Executive Departments, Municipal and County Governments)

Sen. KOROMILAS: Mr. President, I move that we recall HB 322, relative to dogs pursuing game. HB 322 pertains to the problem of dogs. We passed a bill last week with respect to who may kill a dog and under what circumstances. The Governor's Office has informed the Senate that there are some technical discrepancies in that particular bill. For that reason, we are asking that it be recalled.

Adopted.

Sen. Koromilas moved that HB 322 be placed on second reading at the present time.

Adopted.

Sen. KOROMILAS: I move that we lay HB 322 on the table.

Adopted.

COMMITTEE REPORTS

HB 277

relative to the power of the New England Aeronautical Institute. Ought to pass with amendment. Sen. English for Education.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

relative to the power of the New England Aeronautical Institute, Hesser College, McIntosh College, White Pines College, Franconia College, Concord College and Pierce College, to grant degrees.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Hesser College. Amend section 1, chapter 508, Laws of 1967, as amended by 1969, 551:1 by striking out said section and inserting in place thereof the following: 508:1 Authority Granted. The Hesser College, formerly Hesser Business College, conducted by Hesser, Inc., an educational institution is hereby authorized to confer upon the graduates thereof the degree of associate in business science for the period from June 1, 1971 to June 30, 1973.

3 McIntosh College, Inc. Amend section 1, chapter 472, Laws of 1965, as amended by 1969, 573:1 by striking out said section and inserting in place thereof the following: 472:1 Authority Granted. The college conducted by the McIntosh College, Inc., an educational institution, is hereby authorized to confer upon the graduates thereof the degree of associate in business science for the period from June 30, 1971 to June 30, 1975.

4 White Pines College. Amend section 1, chapter 556, Laws of 1969, by striking out said section and inserting in place thereof the following: 556:1 Authority Granted. White Pines College, a voluntary corporation formed under the provisions of RSA 292 is hereby authorized and empowered to establish and maintain in the Town of Chester an institute of learning, to prescribe the rules for the government of said college and the courses of studies therein and to confer upon the graduates thereof the degree of associate of arts for the period from July 1, 1971 to June 30, 1975, provided that it receives the approval of the Coordinating Board of Advanced Education and Accreditation.

5 Franconia College. Franconia College, a corporation organized under general law October 20, 1885, under the name of Dow Academy, is hereby authorized to confer upon the graduates thereof the associate in arts degree and the bachelor of arts degree for the period from June 1, 1971 to June 30, 1973.

6 Repeal. Chapter 457, Laws of 1967, relative to Franconia College is hereby repealed.

7 Concord College. Amend section 1, chapter 587, Laws of 1969, by striking out said section and inserting in place thereof the following: 587:1 The Concord College, formerly Concord Commercial College, an educational institution conducted in Manchester, New Hampshire is hereby authorized to confer upon the graduates thereof the degrees of associate in business administration and associate in computer science for the period from June 1, 1971 to June 30, 1973.

8 Pierce College. Amend section 1, chapter 571, Laws of 1969, by striking out said section and inserting in place thereof the following: 571:1 Pierce College for Women. Pierce College for women, a voluntary corporation organized under the general law and conducting its business in Concord, New Hampshire as an educational institution, is hereby authorized to confer upon the graduates therefrom the degree of associate in business science for the period from June 1, 1971 to June 30, 1973.

9 Revocation of Authorization. Upon a finding by the Coordinating Board of Advanced Education and Accreditation that the educational standards of an institution, which has been authorized by sections 1, 2, 3, 4, 5, 7, or 8 to grant certain degrees, have seriously deteriorated below those in existence at said institution on the effective date of this act or below those commonly acceptable for like institutions, if the General Court is not then in session the Governor and Council may, upon the request of the Coordinating Board and the report of its finds, suspend and revoke such authority for the balance of the period for which it was authorized.

10 Effective Date. This act shall take effect upon its passage.

Sen. ENGLISH: Mr. President, the amendment to HB 277 is now the bill. I would add that the amendment also includes HB's 6, 43, 99, 114, 182, 273, and 277.

These bills which are now the amendment to HB 277 are very similar and it would seem advantageous that they all be dealt with together. They have to do with the power of certain colleges to grant degrees. The colleges involved and the specific degrees authorized are to be found on Page 37 of the Reports.

There is a further reason why these Bills were put together and that had to do with the nature of these Bills as presented. Under the existing law, the Coordinating Board of Advanced Education and Accreditation was established to make recommendations to the Legislature regarding the emerging colleges. At the time the Board was set up, there were a whole series of colleges which suddenly came into existence. Prior to the creation of this Board, the Legislature itself determined which institution should grant degrees. The assistance of the Board in recent years in this matter has been most helpful.

In all cases in connection with the above Bills, the recommendations of the Board have been accepted. The amended bill now provides that if significant changes occur in connection with these colleges requiring action while the Legislature is not in session, the Board shall report to the Governor and Council, they would then approve or disapprove the Board's recommendation.

Amendment Adopted. Ordered to third reading.

SB 27

to provide procedures for the prevention and cleanup of oil spillage in public waters. Ought to pass. Sen. R. Smith for Finance.

Sen. R. SMITH: Mr. President, this bill was reviewed by the Finance Committee. It was unable to determine what the exact cost would be for the implementation of this and it was the feeling of the Committee that perhaps the Water Pollution Control Commission could initially absorb the cost of this. It is a good law and the legislation should be on the books but the cost figure is not determined as yet.

Adopted. Ordered to third reading.

SB 21

providing that school districts may include in borrowing the cost of planning for construction and the amount and purposes of annual grants to school districts. Ought to pass. Sen. R. Smith for Finance.

Sen. R. SMITH: SB 21 was Sen. Downing's bill and was reviewed by the Education Committee and Senate Finance Committee. It includes the cost of planning as a bondable item

for school districts. Mr. Gordon Tate from the Department of Education spoke in favor of the bill.

Adopted. Ordered to third reading.

SB 152

providing standards for registration displays on snow traveling vehicles. Ought to pass. Sen. Townsend for Public Works and Transportation.

Sen. TOWNSEND: Mr. President, SB 152 deals with display of registration numbers on snow traveling vehicles. This bill would require that the display of the registration numbers on the sides of the vehicle and light-reflecting letters or numbers as the case may be, the size of which would be prescribed by the Commissioner of Safety. We feel that this is a good bill in that we have a growing problem in respect to snow traveling vehicles and we feel that this will help to police the general snow mobile traffic.

Adopted. Ordered to third reading.

HB 297

relative to taking deer with single shot muzzle-loading firearms. Ought to pass. Sen. Provost for Recreation and Development.

Sen. PROVOST: Mr. President, the purpose of HB 297 is to prevent double barrel or repeating rifles for deer hunting. They want to keep a single shot muzzle-loading firearms as desirable.

Adopted. Ordered to third reading.

HB 315

providing that minors who have completed a hunter safety instruction course in another state be recognized as competent to handle firearms in this state. Ought to pass. Sen. Provost for Recreation and Development.

Sen. PROVOST: Mr. President, this bill was requested by the Fish and Game Department. It is to recognize out-of-state youngsters as eligible for licenses in New Hampshire after completing a hunter safety course in another state.

Adopted. Ordered to third reading.

HB 179

requiring meat slaughterhouses to pay the cost of inspec-

tions conducted outside of regular business hours. Refer to Legislative Study Committee. Sen. Koromilas for Recreation and Development.

Sen. KOROMILAS: Mr. President, HB 179 would give the Commissioner of Agriculture the right to charge overtime rates where slaughterhouses are inspected by the Commissioner of Agriculture and by his agents. Now, when a person in the slaughterhouse business decides to slaughter, he must have a government inspector present. What has been happening is that the inspectors have been called in, say for example, at 2 o'clock, they start the slaughter and the inspector has to stay there until such time as the slaughtering is completed. Mind you, the Commissioner of Agriculture does have the authority to send his men to the slaughterhouse in the morning. In some instances, the slaughterer has been saying that he would like to have a man there in the afternoon. This person who works for the state has to stay there until it is finished. This bill would give the authority to the Commissioner to charge the slaughterer overtime after the regular business hours of a state employee. Also, the slaughterer would pay the state, then the state would pay the employee overtime. Under this particular bill, the Commissioner of Agriculture has the right to fix the rate of overtime and also the holiday rate.

The Committee felt that because of the problem involved such as workmen's compensation, unemployment compensation, all the other aspects of where a person pays the state, then the state pays the over to the employee was not exactly clear to the Committee and therefore they recommend that it go to the Legislative Study Committee.

Adopted. Referred to Legislative Study Committee.

HB 83

relative to taking wild black bear. Ought to pass. Sen. Morrisette for Recreation and Development.

Sen. MORRISSETTE: The Committee recommended that HB 83 should pass in order to save the possible extermination of our bear. Frequently, hunters not only kill the bear but also the cubs. This would limit the kill to one bear. 479 bear were killed; close to 800 in two years and we checked up, relative to the hunting of bears by dogs, and we feel this is a good bill and should pass.

Sen. SNELL: You pointed out the fact that you were concerned about the number of bear that are being killed and the possible thought of extinction here. I noticed in this bill that it states, "wild black bear may be taken by the aid of dogs from September 1 to the day before the opening of the regular deer season." Do you fel that maybe to preserve these wild black bear that maybe we should delete the use of dogs in this case?

Sen. MORRISSETTE: In my own personal opinion, I don't like the idea at all of getting bear with dogs, but if most of your bears are killed during the deer season, and there is a certain group of people with dogs that come in from out-of-state. The Fish and Game was against the deletion of dogs.

Adopted. Ordered to third reading.

SB 74

authorizing free hunting licenses to owners of one hundred or more acres of land who permit hunting thereon. Ought to pass. Sen. KOROMILAS for Recreation and Development.

Sen. KOROMILAS: SB 74 is an attempt to get more open land for hunting. What is happening in the state is that a great number of people are posting their land. When they do this, a person cannot hunt on it. In order to make more land available for hunting which is over 100 acres, the Director may check it out to see if it is suitable. The owner then gives the Director a certified deed. Then only one owner of that land gets a free hunting license. If the land is later subdivided, the license becomes void. The whole intent of this particular bill, sponsored by Sen. Townsend, is to make more land available for hunting in the State of New Hampshire by giving a person who has 100 acres of land or more a free license if he opens up the land.

Sen. TOWNSEND: I would like to state that while I sponsored this bill and as most of you know here, I own sufficient land to acquire a free license, I do not hunt and I never have so I stand to gain nothing by this. My intent is to do something in an effort to at least put the brakes on increased posting of land. It has become a very serious problem because land is being posted at an accelerated rate and at the rate we are going now, New Hampshire is *not* long going to be known as a hunters' paradise. The Fish and Game Department feels that this is the first step in an effort to do something about it.

Adopted. Ordered to third reading.

HB 317

increasing fines for commercial fishing violations and to provide for confiscation of fishing gear. Inexpedient to legislate. Sen. Morrissette for Recreation and Development.

Sen. MORRISSETTE: The Committee felt that this was not a good bill. In the first place, it would not serve of much use in that most of the items covered in this bill do not require a license. We thought the fining of \$1000 would be excessive. A man that accidentally might catch a bass would apply under this and the fine would be too excessive. As a total, we felt it should be inexpedient to legislate.

Resolution adopted.

HB 61

relative to fish and game licenses issued by the Fish and Game Department. Ought to pass. Sen. Porter for Recreation and Development.

Sen. PORTER: Mr. President, HB 61 concerns the 50 cent fee collected from license applications at the Director of Fish and Game's Headquarters. It simply directs that this 50 cent fee shall be applied to the Fish and Game Fund.

Adopted. Ordered to third reading.

SB 104

providing standards for the marketing of maple syrup and authorizing the Commissioner of Agriculture to enforce these standards. Ought to pass. Sen. Porter for Recreation and Development.

Sen. PORTER: Mr. President, SB 104, introduced by Sen. Townsend, establishes a compulsory grading law for maple syrup. New Hampshire has never had a compulsory grading law and there has been some low-grade syrup put out on the market. The bill is a consumer protection law, was supported by the New Hampshire Maple Syrup Producers Association and was further supported by the Division of Markets and Standards and the Department of Agriculture.

Adopted. Ordered to third reading.

SB 139

relative to trapping fisher. Inexpedient to legislate. Sen. Morrissette for Recreation and Development.

Sen. MORRISSETTE: The Committee felt HB 282 provided a better season and was recommended by the Fish and Game Department. We felt that SB 139 would not be as good a bill in that the season fell within the breeding and deer season, therefore we recommend that this SB 139 be inexpedient.

Sen. NIXON: Sen. Morrisette, as the sponsor of SB 139, could you tell me what the difference is between the seasons as provided in SB 139 and HB 282 as it is coming into this body is?

Sen. MORRISSETTE: I think HB 282 provided a season from December 1 to March 1 and deer season is in November. If you opened the season in November, it would be unfavorable.

Sen. NIXON: I believe the existing law provides that fisher can be taken from November 1 to November 30 in the counties of Merrimack and Belknap. Does that remain the same under HB 282?

Sen. MORRISSETTE: I do not know. Sen. Koromilas could answer that.

Sen. KOROMILAS: At the present time, there are various seasons for taking of fisher. Some counties have it earlier, some later. HB 282 makes it uniform; December 1 to March 1; that is throughout the state.

Resolution adopted.

HB 282

providing for an open season on fisher. Ought to pass. Sen. Morrisette for Recreation and Development.

Sen. MORRISSETTE: The Committee recommended that HB 282 ought to pass and felt that this would be a better season. This is the only animal that kills porcupines and it is not as destructive an animal as some people have made it out to be. It is very valuable and the supply would not be hurt therefore the Committee felt that this should pass.

Sen. POULSEN: HB 282, as I find it, puts a bounty on fisher. Is there a bounty in your bill?

Sen. KOROMILAS: There is not bounty provided in the amended version of the original bill. The bill was amended in the House and took out the bounty provisions. All it talks about is the open season.

Sen. POULSEN: Is the season, as you have it now, from December 1 to March 1?

Sen. KOROMILAS: That is correct.

Sen. KOROMILAS: There was ample testimony of these two particular bills with respect to the open season on fisher. SB 139 provided that the season would begin November 1 to November 30 and that was only with respect to certain counties and then November 1 to March 31. There appeared to be a great deal of testimony with respect to the mating season of the fisher that if a person did kill fisher or trap them, it would be for the purpose of the pelt and to kill a fisher before some-time in November would result in not acquiring the proper pelt.

It also appears that the fisher has been killing certain types of animals; it is a predatory animal. Supposedly, there is some evidence that it has been killing rabbits and other types of game. It was one-time believed that it was the *real* enemy of porcupine but that hasn't been actually proven. The reason for the bill is to make the season uniform. The dates have been checked on by the Fish and Game so that there will be no mating at the time of the season.

Sen. NIXON: Sen. Koromilas, at the hearing on HB 282, (it being my understanding there was no hearing on SB 139) was there any evidence as to whether or not the law of nature provides any means for reducing the fisher population — is there any animal that kills fisher?

Sen. KOROMILAS: I think the human is the only one that kills the fisher.

Sen. POULSEN: I rise in support of HB 282. There is no question that the prime season for fisher is December through March and I think that as long as they are going to be taken, it should be done while the pelt is of value.

Adopted. Ordered to third reading.

FURTHER HOUSE MESSAGES

The Senate acceded to House request for a Committee of Conference on motion of Sen. Tufts on

HB 309, relative to unemployment compensation.

The Speaker has appointed as members of said Committee of Conference on the part of the House Reps. Merrill, Cate and Dion.

The President appointed as conferees on the part of the Senate, Sens. Porter and Lamontagne.

ANNOUNCEMENTS

Sen. NIXON: Mr. President, I think we should recognize the fact and congratulate Mr. Joseph Zellner, chief of the AP Bureau here in Concord on his marriage to Miss Jeanette Mitchell which, I understand, took place last Friday and was conducted by former governor Wesley Powell in a private ceremony. I understand that Mr. and Mrs. Zellner took Fast Day off to be back to work today.

Sen. Spanos moved that the Senate now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock in memory of the late George Pat Angus, Representative from Claremont who for many years served the Legislature and the State honorably and with distinction.

Manifested Unanimously.

LATE SESSION

Third reading and final passage

HB 277, relative to the power of the New England Aeronautical Institute, Hesser College, McIntosh College, White Pines College, Franconia College, Concord College and Pierce College to grant degrees.

SB 27, to provide procedures for the prevention and clean-up of oil spillage in public waters.

SB 21, providing that school districts may include in borrowing the cost of planning for construction and the amount and purposes of annual grants to school districts.

SB 152, providing standards for registration displays on snow traveling vehicles.

HB 297, relative to taking deer with single shot muzzle-loading firearms.

HB 315, providing that minors who have completed a hunter safety instruction course in another state be recognized as competent to handle firearms in this state.

HB 83, relative to taking wild black bear.

SB 74, authorizing free hunting licenses to owners of one hundred or more acres of land who permit hunting thereon.

HB 61, relative to fish and game licenses issued by the Fish and Game Department.

SB 104, providing standards for the marketing of maple syrup and authorizing the Commissioner of Agriculture to enforce these standards.

HB 282, providing for an open season on fisher.
Adopted.

Sen. Ferdinando moved the Senate adjourn at 1:55 o'clock.
Adopted.

Wednesday

28Apr71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Guest Chaplain, Rev. P. V. George of the Plymouth Congregational Church in Plymouth, New Hampshire.

ALMIGHTY GOD, Lord of the Nations, power and glory belongs to you. You are the source of life and love. To You we lift our prayers for the world, its peoples and societies. May this day bring men and nations closer to You and to one another. Guide our own Nation, our President and his Cabinet with Your wisdom and courage to work for peace and goodwill. Enable us to follow their leadership with confidence.

Gracious God, look upon the needs of our State, its Governor and the concerns of this Senate. Forgive us the good we have neglected and the wrongs we have done. Pardon us and

grant us the grace to make a new beginning this day. Bless and guide the affairs of this Senate that the decisions made here may be in accordance with Your plan and purpose.

Help us all to act responsibly in matters great and small that we may remain Your good and faithful servants. Amen.

Pledge of Allegiance was led by Sen. Leonard.

Sen. Stephen Smith in the Chair.

The CHAIR would state that Sen. Jacobson has served notice of reconsideration on HB 282, providing for an open season on fisher.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 188, relative to a compact between the State of Maine and New Hampshire to promote the better utilization of the Saco River Watershed, and making an appropriation therefor. (Smith of Dist. 3 — To Resources and Environmental Control.)

SB 189, to amend the New Hampshire higher educational and health facilities law. (Ferdinando of Dist. 14 — To Executive Departments, Municipal and County Governments.)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 187, to revise the procedures governing the practice of dentistry in the State of New Hampshire. (Public Health, Welfare and State Institutions)

HB 467, relative to intoxicating beverages at interscholastic athletic contests. (Education)

HB 528, authorizing town treasurers to deposit moneys in insured savings accounts. (Executive Departments, Municipal and County Governments)

HB 548, relative to the use of the state seal. (Executive Departments, Municipal and County Governments)

HB 621, increasing the authorized debt limit of the Pelham School District and the Windham School District. (Education)

HB 698, permitting a variation in the rate of interest on a readvance under a mortgage. (Banks, Insurance and Claims)

HB 711, relative to certain administrative procedures within the Department of Education, school boards and schools. (Education)

HCR 17, ratifying the proposed amendment to the Constitution of the United States extending the right to vote to citizens eighteen years of age and older. (Judiciary)

HJR 43, providing for a visitors' center in the State House. (Executive Departments, Municipal and County Governments)

COMMITTEE REPORTS

Special Order of Business at 1:01

HB 328

repealing the statute providing that the Labor Commissioner shall establish the minimum wages paid and its political subdivisions in the construction of public works and enacting an anti-kickback in public works statute. (Requested by Sen. McCarthy)

PARLIAMENTARY INQUIRY

Sen. DOWNING: Wasn't there a minority report filed and shouldn't a minority report be heard in order following the Committee Report?

The CHAIR would state that both reports have been read.

Sen. DOWNING: Mr. President, I moved that the majority committee report of Ought to Pass on HB 328 be replaced by minority committee report Ought to Pass As Amended.

The amendment was printed on Page 25 of the *Reports and Hearings* schedule dated April 22 and also on Page 34 of yesterday's schedule.

HB 328 as amended will accomplish two things (1) it provides an exemption to RSA 280 for all projects of \$250,000.00 or less. (2) it ties RSA 280, or better the "Little Davis-Bacon Act" to the Federal law, in the same and to the same extent as the Davis Bacon Act as it presently exists or is later amended or even repealed.

The purpose for this amendment is to offer a compromise, a position of moderation, to avoid a flagrant discrimination against a segment of our working class and hopefully avoid an economic catastrophe.

I considered the testimony on HB 328 very carefully and find that many of its supporters do so because they are misinformed, e.g. they were advised that they could save \$10,000,000.00 this year alone in excessive construction labor costs if they would support HB 328. The repeal of RSA 280 only effects wages. My investigation of the matter indicates \$10,000,000.00 would represent 2/3 of the labor cost of the projects discussed. Obviously this type of testimony was not valid and was misleading at best. Assume for a minute that such a savings was possible, how could it possibly result in anything but more welfare and more unemployment. These cost money also.

During testimony on HB 328, there were many denials that this was a union busting bill, but it is. And to qualify that, I'd like to say while not everyone supporting the bill was anti-labor, anyone who was anti-labor is supporting the bill.

My immediate concern with this bill is not so much labor or anti-labor as it is one of economics. We live today with problems of inflation, recession, war and a \$10,000,000.00 state deficit. This is hardly the time for reckless, extreme action such as completely abolishing an economic support program that's been in effect for 30 years. This move can only lead to economic disaster and personal hardship for a segment of our people, many of whom are just coming off the unemployment roles to begin the construction season.

Without this amendment too many of them will soon be back on unemployment or welfare or worse.

I know some of you will not be in sympathy with my reservations as I cannot agree with HB 328 in its original form.

I offer this amendment as a reasonable compromise, as what could be a period of adjustment. After all, the law we're dealing with has been in effect 30 years. If it must go, it should be phased out in an orderly fashion so that economic adjustments can be made by all concerned.

This amendment would exempt about 60% of the projects that now come under our "Baby Davis Bacon Act" and repre-

sents the position of moderation that our present economic condition and sense of fair play demands.

I urge your support of the amendment.

Sen. POULSEN: I rise in opposition to the amendment. The bill as it is now introduced, if it is amended, will be greatly weakened. The figure of \$250,000, nowadays, is quite a small job. It doesn't take in any of the big jobs and while it may take in 60 percent of the jobs, it couldn't take in 60 percent of the money involved. I think that if this bill is amended that the whole concept will be terribly weakened and I urge that the amendment be turned down and the bill be voted as it was originally introduced.

Sen. BRADSHAW: Sen. Downing, part of your amendment called for a \$250,000 exemption. Are you familiar with the normal form in which contracts are put out or the request for bids are turned out — does there have to be a base bid plus several alternates? The alternates could be plus or minus to the base bid. Now, what would happen in the event that a job came in for a base bid of \$252,000 which would mean that they would have to use the so-called “posted wage scale” but there was a \$4,000 alternate taking \$4,000 off of the job and this is what they actually signed in the contract, now bringing it down to \$248,000. Does that mean that the contractor could then resort to his own wage scale and pocket the difference?

Sen. DOWNING: I would say that the amount of the total contract would be the amount of the job, whatever the final contract was. I would expect that any reasonable contractor would project out his costs and figure his wage scale according to what his bid was going to be, whether it was going to be under the exemption or over it.

Sen. BRADSHAW: But my question, senator, is that if you are aware of the normal structure of request for proposals for buildings, you must be aware of the fact that they come out with what they call a base bid and there can be alternates all over the place, up and down, and no contractor, at the time that he is bidding. He knows how many of the alternates are going to be accepted or rejected and consequently, he could be bidding on one portion of it that was above your proposed minimum and wind up with a contract that was actually lower than your proposed amendment. How are you possibly going to protect anybody with that type of a system?

Sen. DOWNING: I don't really see that there is a problem at all. I can't imagine, obviously with an exemption in there which is something that contractors bidding today do not have to deal with. When they have to deal with it, I am sure the good old American ingenuity will come through and they will find a way of bidding one way or the other. When you get to a border line case of a quarter of a million dollars, \$4,000 one way or the other, I assure you that everybody is going to be bidding under the quarter of a million dollars. The \$4,000 is very insignificant.

Sen. BRADSHAW: Isn't there a distinct possibility that a contractor could bid on one wage scale for some kind of contract and actually pay a lower wage scale and simply pocket the difference for himself?

Sen. DOWNING: This is a possibility; it's not very probable and it certainly isn't the type of contractor you would want doing your job and I am sure that another contractor could be in a competitive situation and would figure the job at a lower rate and been a lower bidder.

Sen. LEONARD: You mentioned in your remarks that the state, at this time, has a \$10 million deficit. If this bill is passed without amendment, would the state save money in their construction projects in the next few years?

Sen. DOWNING: If the bill was passed without amendment it's conceivable that they could save some money on construction, but I feel that they would spend the money in other areas.

Sen. LEONARD: What are the other areas?

Sen. DOWNING: Welfare would probably be the primary area; areas of relief.

Sen. LEONARD: People who are working in construction and not receiving union wages are not on welfare, are they?

Sen. DOWNING: I don't know whether some of them are or not.

Sen. LEONARD: Let's assume that the person is working for non-union wages and working regularly; would you say he would be on welfare?

Sen. DOWNING: I don't think it is a reasonable question.

Sen. LEONARD: When you refer to the state spending money, you mean that an individual might be on union wages and if this bill is passed, then he would be cut down to the regular wage that 80 percent of the workers have, correct?

Sen. DOWNING: This is conceivable but there may not be work available for him.

Sen. KOROMILAS: You have received, as I have, many letters from various contractors and almost the tenor of every letter is to save the state money for the cities and towns, isn't that correct?

Sen. DOWNING: Yes, generally.

Sen. KOROMILAS: Could you conceive of a contractor playing around with bids or alternate bids to take advantage of the situation?

Sen. DOWNING: I could conceive of a contractor doing almost anything.

Sen. SNELL: Sen. Downing, it was brought to my attention, Saturday, by two unionized workers in my district that they had been collecting unemployment and I am concerned; I also found out what type of salary these individuals were receiving. One individual was earning \$14,600 and one \$15,200, yet they had the opportunity to be unemployed for a length of time and actually benefit from our employment law that we have in the State of New Hampshire. Do you feel this is a fair practice?

Sen. DOWNING: I don't think it is a question of whether the practice is fair or not. The fact is that it has been a practice for thirty years and now you have people who are committed to a level of income that you could suddenly dissolve overnight. Is this fair?

Sen. JACOBSON: You made a generalized statement that if this amendment were adopted, there would be increase in welfare and unemployment. What documentation did you have for this?

Sen. DOWNING: Just a simple observation. It isn't anything very complicated. If you are going to be able to replace qualified, experienced workers that require a level of pay with people who are not, then it stands to reason somebody's going

to be out of work. If that happens, I suspect those two areas will bear the brunt.

Sen. JACOBSON: Is this because, in some areas, there is non-unionization and in other areas, there is unionization?

Sen. DOWNING: Yes, it could definitely have an effect on it.

Sen. JACOBSON: Is there anything that prohibits the unions from unionizing the non-union sectors?

Sen. DOWNING: Not to my knowledge.

Sen. JACOBSON: What percentage of the total work force in New Hampshire is involved in this?

Sen. DOWNING: I can't tell you, senator. I heard that it was something like 4 percent or 5 percent but I can't qualify that.

Sen. JACOBSON: Do you have any knowledge of how many of these are Massachusetts workers as opposed to New Hampshire workers who are involved?

Sen. DOWNING: No, I don't.

Sen. POULSEN: When I was young, I heard that everyone who drank wasn't necessarily a bum but that all bums drank. Isn't this type of thing as hard to prove as your statement that anyone who is for this bill wasn't necessarily against labor, but all the anti-labor people were for the bill?

Sen. DOWNING: Certainly not any harder to prove.

Sen. PORTER: If HB 328 were enacted and RSA 280 repealed, do you feel the average salary for the trades such as carpenters and plumbers and so forth might be decreased?

Sen. DOWNING: Yes, I think it would. More importantly, I might add that I think that people that are at a wage level now would be substantially reduced. There are some people working at a low wage level now that would continue at that level.

Sen. PORTER: Could you give me an idea of how far you think these average salaries might be reduced under such a situation?

Sen. DOWNING: No, I can only tell you that I am very fearful of it.

Sen. KOROMILAS: Sen. Poulsen, I have read, and I am sure your Committee heard a great deal of testimony with respect to the savings to the cities, towns and state from the passage of HB 328. Could you describe to us in detail how the passage of this bill is going to save the cities and towns moneys if this bill passes?

Sen. POULSEN: I will endeavor to. Each public function that is built, a town building, a fire station, a school that is built with local or state money, under the terms of RSA 280 that we now operate under, the wages the contractor agrees to pay on those jobs have to be set by the State Labor Commissioner, who reaches his wage by the latest two contracts that have been signed between unions and contractors. It is usually a high figure. Those figures are used in the construction and are bid upon by the bidders of the jobs. Consequently, the town or state who pays for the function has to pay at the rate of the highest union wages available rather than at a negotiated wage or the up and down wage of many contractors. Does that answer your question?

Sen. KOROMILAS: Those contractors that have a union shop, pay union scales, will they be affected by the repeal of RSA 280?

Sen. POULSEN: Not at all. They can still pay any wages they want as long as this is repealed. This does away with the minimum wage. It also would not affect them if they were bidding on roads and anything that had federal money in it.

Sen. KOROMILAS: How many real large contracting organizations are not union labor?

Sen. POULSEN: I don't know the number but I think they all come and go at different times.

Sen. NIXON: Sen. Poulsen, is there anything in HB 328 which would repeal RSA 280 and which would place any limitation at all on the prices charged for material, the profits earned by the contractors' bidding or the executive salaries of the officials of the corporate bidders in the case of such contractors?

Sen. POULSEN: Those things do not change, senator.

Sen. NIXON: Therefore, from what I understand, the only effect of this bill, if adopted in unamended form, would be to probably reduce the wages of the men who work with the tools, so to speak?

Sen. POULSEN: The men who work with the tools of the trades that are used in the construction, that is correct.

Sen. NIXON: Would it be unfair in assuming that the fact that we do have these predetermined wage scales and for that matter, collective bargaining determined wage scales, has some encouraging effect in terms of increasing the wages paid to non-union employees?

Sen. POULSEN: I don't know if I can answer that.

Sen. McCARTHY: I have heard reference to a couple of union people making \$14-15,000 a year. Do you have any idea what the average wage for a union carpenter in the State of New Hampshire was last year?

Sen. POULSEN: I don't, but I do have it in my file.

RECESS

Sen. POULSEN: The figure is \$5.81 an hour and your question which was on the year; it figures about \$970 a month and with about 8 month employment, because many of them lose the Winter, it brings the figure to around \$8,000.

Sen. McCARTHY: I asked the same question of the recording secretary of the Carpenters' Local in Manchester who checked his records and told me that the average wage for a union carpenter in New Hampshire last year was \$7,800. Do you consider that on the low or high side?

Sen. POULSEN: I would say that was very near correct, but it doesn't include his unemployment compensation benefits which are quite good now.

Sen. McCARTHY: I also received information from the secretary that in a 400 member local, that they had 90 people unemployed from last October until right now, which is about 25 percent of the members. Do you think that is reasonable?

Sen. POULSEN: Starting in October would be a little early. Ordinarily, I would say that starting in November it would be very likely.

Sen. KOROMILAS: Referring to the question that was posed by Sen. Nixon with respect to what the bill does, vis-a-vis the contractor, executive salaries and as opposed to labor, my question is, with respect to what would be involved, is as follows. The building trade, as I understand it, is more than just the labor; it's the plumber, the bricklayer, the electrician, all the building trades. Is it fair to say that the least organized of all the building trades is the ordinary laborer?

Sen. POULSEN: I think that would be fair to say. I don't really know what their unionization is but it would be a logical assumption.

Sen. LEONARD: Sen. Poulsen, Sen. Nixon was questioning you about the effect of HB 328 on the increased costs. Is it true that when a contractor figures a job, he takes all the costs and he adds his overhead, then he adds his profit? When he has increased cost of labor, he also has a higher profit and a higher overhead?

Sen. POULSEN: That is true.

Sen. SPANOS: Mr. President, I rise in support of the amendment offered by Sen. Downing. In my opinion, it is a fair and reasonable effort at compromise for all parties concerned, i.e. the contractors, the building trades and the taxpayer. It would leave the "Little Davis-Bacon Act" in operation when construction bids exceed \$250,000.00 and repeals the law for projects costing less than a quarter-of-a million dollars. According to the information made available to me, this would mean approximately 60% of the work projects undertaken in a given year — it would take care of the communities contemplating the construction of a fire station, small schools or enlargements thereof and other such municipal work projects.

The amendment would also suspend the law when and if the President suspended the federal Davis-Bacon law which would make for consistency in the industry.

I am willing to support these amendments because I cannot, in good conscience, agree to the complete repeal of Chapter 280 which HB 328 contemplates. I am not convinced by the arguments of the proponents of repeal.

Let me put my opposition to repeal in its proper perspective. Until Thursday of last week when this body made HB 328 a Special Order of Business for today, I had never been con-

tacted by one single member of the building trade unions. As most of you are aware, I reached my decision to oppose repeal long before last Thursday. On the other hand, I have had considerable correspondence from town and school authorities and "umpteen" contractors — letters, telegrams, personal contacts and telephone calls urging the passage of HB 328. The decision I have reached is based on my own findings, my own experiences and my own sympathies and judgment.

Now to the issue at hand —

The proponents of HB 328 argued on the floor of the House and elsewhere that passage of HB 328 would save the taxpayers of our State approximately \$10 million dollars annually based on anticipated construction projects of about \$110 million yearly. In my opinion, this was a most misleading statement and most regrettable. From what I can learn, about one-half of the total public construction projects do not involve the state Davis-Bacon Act. \$55 million a year would be closer to the state's annual construction projects. When you consider that labor costs average about 27% of the total project cost, this would mean a total annual dollar volume for labor costs of about \$15 million. If we are to believe those who come up with the \$10 million saving's figure, the saving's would represent over two-thirds of the total labor costs and this is obviously absurd. However, without an articulate voice in the House to refute this statement of savings, it had a telling effect on the membership of the House as \$10 million is a lot of bread.

And if there are to be savings, I ask, is the taxpayer back home going to be the beneficiary or will the costs remain the same with the difference going to someone else other than the worker. I have to smile when I read my correspondence and my telegrams from the contractors. Quote: "We strongly urge the passing of HB 328 in original form for the benefit of the general taxpayer." End of quote. I submit that their main concern is for a piece of the action. Ironically, one of the main reasons for the adoption of the "Little Davis-Bacon Act" some 30 years ago (according to some testimony at the House hearing) was because certain New Hampshire contractors were and I quote "exploiting the workers in that industry." Is this going to happen again if this law is repealed?

Let us clear up another misconception at this time. The proponents of HB 328 would leave you with the impression that

the construction worker pulls down an astronomical yearly salary. This is also far from the truth from what I can learn. The average yearly income for men in the building trades in New Hampshire is \$8-9000. Do you consider this so exorbitant for a man with a family to feed, clothe and house? Especially in these times?

We must always remember that many of these men are involved in hazardous occupations and many of them (because of adverse weather conditions) do not work full weeks or months.

The other day when I accompanied Senator Muskie on his trip through Manchester, a planned stop to visit with certain construction workers was cancelled. You know why? Because it was snowing and these men had been sent home.

Then we heard the argument promoted that these workers should not be subsidized at the expense of the taxpayer. Subsidization is nothing new in our economic society. We subsidize the airlines, the railroads and what about the biggest subsidy of all — the oil depletion allowances for the millionaire oil barons. What would you call the “teacher salary schedule” which is prevalent in our school districts if not a subsidy? And, yes, what about the subsidies to the farmers of this country? I am not knocking subsidies. Subsidies are utilized in many instances to maintain economic balances in the best interest of all of the people — and always at the expense of other taxpayers.

It was also argued that the construction workers should not benefit under the laws while shoeworkers, textile workers and others do not. I submit that because of the relatively high wages paid the building trades, that the shoeworkers and the textile workers are in a better position to ask for higher wages because they can point to the wages paid their brethren in the building industry. I have seen this happen.

But you know what bothers me the most about repeal? It isn't so much the effect on the union-member because he will have the collective bargaining machinery to protect his legitimate concerns but what happens to the non-union workers if the law is repealed? Right now they are receiving a wage-scale identical to the union members because of the law. Do you actually believe that they will get the same wages if Chapter 280 is repealed? I doubt it very much.

And what kind of an economic climate would we be creating if we retain the federal act and repeal the state statute. One group working on federal projects would be getting the "subsidy" and the other group on state and municipal projects would not. And while I am on this subject, I think we should give great weight to the fact that President Nixon suspended the federal act on 3-28-71 and then (in the interest of our nation's economy) re-instated the act on 3-29-71.

It has been argued that the "Little Davis-Bacon Act" is inflationary — and I say no more so than the effect of high interest rates and material costs and increased profits. If we are really concerned about inflation, then let us recommend price controls. Let's see what would happen in such an eventually.

To repeal the "Little Davis-Bacon Act" in one "felled-swoop" after 30 years of it being the state policy would be disruptive and unfair. I realize that we are talking only of 4% of the state's labor force — but that 4% represents live, human beings. Let us not treat them as statistics — but rather as people.

Finally, I do not know what course others may take on this issue, but I shall not stand idly by and watch us trample upon the legitimate needs of the working man while we give tacit approval to the activities of the princes of finance and the materialmen. I refuse to bear witness to the crucifixion of the working man on the pseudo-cross of inflation.

I urge adoption of Sen. Downing's amendment.

Sen. BRADSHAW: Sen. Spanos, as I read the proposed amendment, it would appear to me that if a job was in the amount of less than \$250,000 and had been bid at this point, the contractor has a set figure and whether it be the school district, town or state, they have got to pay that contract figure. But it appears to be from the amendment, that if this amendment was adopted, he could then change his wage scale and pocket the savings. Is this correct?

Sen. SPANOS: It is very possible that the wage scale could be changed, but I can only reply in saying to you that all these gentlemen who have written all these fine telegrams and letters are not up to doing such things.

Sen. SNELL: Sen. Spanos, you mentioned that 27 percent of the total projects would affect the labor unions representing

close to \$15 million. How much of a savings here would we actually benefit — 10 percent, \$1.5 million, \$2 million?

Sen. SPANOS: I would say if you used the figures that were offered by Rep. Trowbridge, I think he used the 10 percent figure which would mean in the area of something around \$1.5 million instead of \$10 million.

Sen. PORTER: Part 2 of the amendment, does that apply to existing contracts?

Sen. SPANOS: The existing contracts would fall under this act.

Sen. McCARTHY: Mr. President, Last week I asked for and was considerably given additional time to study the full ramifications of HB 328. Mr. President, I have used the time for that purpose and to reflect on the full import of this bill. Ladies and gentlemen, it is my considered opinion that the full import of HB 328 is that if it passes and is enacted into law, then the State of New Hampshire will have rolled back the clock for her laboring sons not to 1941, but more properly back to the 19th Century when the Amoskeag Mills prospered on the sweat of unorganized laborers working for \$6 a week. This may sound like a great exaggeration but when we consider acquiring labor for as cheap as we can get it without regard for what it costs today to raise a family then we are, in my view, heading down that path. It is unconceivable to me, that at a time when the biggest and most responsible business in this country are concerning themselves more with social responsibility, that the great State of New Hampshire could even consider going in the other direction.

The purpose of HB 328 is reportedly to save me and my constituents some money but I don't consider it sound to do so at the expense of my neighbors. This may be the key reason why I feel differently about this particular piece of legislation than many others apparently do. What I am trying to say is that I don't think we should think of laborers, carpenters, etc. as only machines, but we must recognize the fact that these are the same people whose children go to school with my children, who attend the same churches we attend, who pay the taxes and have a longstanding commitment to their city, town and the State of N.H. and have every reason to expect to be able to earn a living

wage for their families. I think they will be severely hampered and frustrated in this honest effort if HB 328 passes and the State of New Hampshire authorizes and even *encourages* contractors to get their labor as cheaply as they can whether it be from Canada, Mississippi or from any other source of employees who have no commitment here in N.H.

I would like to state that personally I feel no obligation to the efforts of labor unions in New Hampshire since no member of my family has ever profited by it. But looking at the situation as objectively as I can, it seems strange that I can receive so much mail from so few contractors and that every time I go out to eat, the biggest cadillac in the lot is that of a contractor while most of the trades-people I know have to car-pool.

Some people have indicated to me that this talk is too sentimental without desired facts, but I can see no other way to appeal to you. It is true that in the short run, you could save a few dollars, not nearly what is hoped because the contractor will stay in his cadillac and probably buy a condominium in Florida, but in the long run my constituents and I and those of us who rely on others end up the losers because the more important and long range aspect of this piece of legislation is that it is a real attempt to thwart the efforts of organized labor in New Hampshire and to bring the employees back to another age. From my vantage point, I don't think this is good for me or for the future of this country.

Neither did President Nixon when he rescinded a similar order a few months ago. If he, in his position, can see the damage to the economy and society then I don't see why the great State of New Hampshire should bend over backwards to destroy what little attempt at union labor we have. It is extremely reprehensible that we are even considering such an attempt.

My only point is that the ramifications of HB 328 extend far beyond the few dollars a town might save next year and involve very serious societal problems which were recognized years ago and have been appreciated since. To approve 328 is to throw away these realizations and I don't think it is in the best interest of New Hampshire.

If you haven't heard by now that I am opposed to HB 328, then I repeat I am definitely opposed to it.

I've heard that there was some attempt to amend this bill and I am opposed to the proposed amendment also, although I do think it is an honest attempt at compromise and certainly more palatable to me than HB 328 is in its present form.

Sen. BRADSHAW: Sen. McCarthy, I believe that you made the statement that if we were to enact HB 328, we could well put people back into the category of slave wages. Did I understand you correctly?

Sen. McCARTHY: You misunderstood me. — I did not say slave wages. I said you would put us back into an age where such things could exist. We do have state minimum requirements and so forth, but you may put people back to the state minimum — \$1.60 or something to that effect.

Sen. BRADSHAW: Are you aware of the fact that our sister state of Vermont has never had a so-called Mini Davis-Bacon Act?

Sen. McCARTHY: No, I was not aware of that.

Sen. BRADSHAW: Are you aware of the fact that in the State of Vermont, which does not have a mini Davis-Bacon Act, the prevailing rates at the present time for a carpenter are \$6.80 an hour; for masons, \$7.50; plumbers, \$6.70; electricians, \$6.31?

Sen. McCARTHY: I believe that. Do you think, Senator Bradshaw, that the fact that organized, unionized construction companies from the southern part of New Hampshire, bidding on the major contracts and supplying most of the union help in the State of Vermont has any effect on the wages that you just cited?

Sen. BRADSHAW: New Hampshire contractors bidding in Vermont? I don't think that it is a particularly significant factor. I think that it can be attributed to the normal bargaining procedures which is one of the vital functions of the unions themselves.

Sen. McCARTHY: Are you aware of the fact that among projects going up in the State of Vermont is a \$7 million hospital being built by a unionized contractor from southern New Hampshire?

Sen. BRADSHAW: I believe that it is very possible but I would add that we have here several million dollars worth of

construction being done by contractors from Massachusetts, Maine, New York, Vermont, all other states. I do not see any significance to the fact that you know one New Hampshire contractor who is doing one job in the State of Vermont because Vermont has come to New Hampshire, Bay State has come into New Hampshire; it goes all over the place and I think if anything, you are substantiating my position that they do not need the mini-Davis-Bacon Act to protect their wages.

Sen. KOROMILAS: If I understand you correctly, senator, you are saying that there being no Davis-Bacon Act in Vermont at the present time, yet the prevailing rates are higher in Vermont than they are in New Hampshire. Is that what you are saying?

Sen. BRADSHAW: They are at least comparable, yes, senator.

Sen. KOROMILAS: Is it then fair to say that if they don't have the Davis-Bacon Act in Vermont and the prices are high for wages, wouldn't that be the effect by repealing the Davis-Bacon Act in the State of New Hampshire?

Sen. BRADSHAW: The wages would remain where they are. It is possible that they go up to what they are in Vermont but I don't happen to think that the wage scale is really the issue on HB 328 and I intend to speak to that point later on.

Sen. PORTER: I rise in support of the Committee Report as opposed to the minority report with amendment. I have tried to learn all the facts that I could regarding this bill and I feel that its passage is necessary to gain the maximum use of the taxpayers' dollars. I have received many calls on the bill both in favor and opposed. The calls in opposition were made generally by people who were members of the building and trade unions who would feel a certain amount of insecurity should HB 328 pass. I have received no mail in opposition to the bill. I did receive mail in support of the bill. The letters came from some construction companies and from selectmen in my district. These letters indicated the general awareness of the proposed legislation. HB 328 will, I believe, achieve savings to the taxpayers. Towns, cities and the state should have the opportunity to let out competitive bids. Enactment of HB 328 will allow free competition without compromising quality. With the repeal of RSA 280, the result of the enactment of HB 328 would

be a drop in salaries. I don't believe so. As was pointed out just recently, Vermont has no Davis-Bacon Act. Recent attempts to legislate it were unsuccessful. Their average salaries for several of the trade rates is higher than currently exists in the State of New Hampshire.

In summary, the enactment of HB 328, repealing the RSA 280, will result in savings to the taxpayer and I am sure of the continuation of the competitive, free American enterprise system.

Sen. SPANOS: Sen. Porter, of course you are well aware that President Nixon did suspend the Davis-Bacon Act on a federal basis. Would you care to comment on why he did it?

Sen. PORTER: I haven't reviewed his printed record of why he did it.

Sen. DOWNING: You mentioned somehow or other to tie HB 328 to competitive bidding. Do you see how the amendment, as offered, would have any adverse effect on the competitive bidding situation?

Sen. PORTER: It would depend on the level of the contract.

Sen. DOWNING: Would you explain that?

Sen. PORTER: The amendment would apply the RSA 280 to public works construction in excess of \$250,000. On these larger jobs, you would be required to have these minimum wages.

Sen. DOWNING: I don't understand the point you are making that the minimum wage limits competitive bidding.

Sen. PORTER: It doesn't limit the competitive bidding in that you have a minimum wage but if a person wants to seek out and competitively bid for the job, they could bid whatever wages they chose to.

Sen. DOWNING: In other words, what you want to do is save in construction at the expense of the worker? That there shouldn't be savings in areas like overhead and financing and techniques. The only area you want to pick up the savings and the only area you can pick up the savings is labor?

Sen. PORTER: Not at all, senator. The job that is put out has its specifications applied to it. To meet the specifications, you need all the requirements in back of it; support of these specifications. You have to have the overhead function to support it and the labor force.

Sen. DOWNING: What I would like to know is where else you would save money other than labor?

Sen. PORTER: I guess I don't understand your question.

Sen. DOWNING: How would the bill afford a savings to a community other than in the labor of the construction worker?

Sen. PORTER: Because the community would be able to receive a low bid based on several competitive corporations bidding for a particular job.

Sen. DOWNING: Is the money going to be saved in any other area other than the labor of the construction worker?

Sen. PORTER: I assume it would be saved in all aspects of the construction bid.

Sen. DOWNING: That exists now. The only thing HB 328 affects is the labor costs.

Sen. PORTER: That is correct. The reflection on top of labor, if you add in your overhead costs, GNA and all these other administrative expenses and the profit, you would raise the overall costs.

Sen. DOWNING: You continually expand on your answers and it gets confusing. The point I would like to make, and you agreed to a moment ago, is that really the only savings that is going to be reflected by the course you are proposing is out of the pockets of the construction worker.

Sen. PORTER: The savings will be, as a result, reflected all the way through the entire bid. If there is lower direct labor, lower direct materials, these are summed up, added in with administrative costs.

Sen. DOWNING: HB 328 doesn't effect these — only labor.

Sen. PORTER: They will have a secondary effect.

Sen. NIXON: You stated, senator, that the passage of HB 328, unamended, would not cause a drop in salaries. Those were your words, correct?

Sen. PORTER: That is my feeling. I don't believe it would.

Sen. NIXON: Are you aware that the labor is not paid in salaries. They are paid by the hour?

Sen. PORTER: Yes.

Sen. NIXON: You also stated that if the bill passes, there will be savings in labor costs. Is that correct?

Sen. PORTER: Conceivably.

Sen. NIXON: Can you tell me how, at the one and same time, there can be a savings in labor costs in respect to a particular job without paying the labor less money?

Sen. PORTER: There will be an overall cost due to competitive action by several different competing companies for any construction job. If you go backwards from the bid cost and take a certain amount of profit, the overhead and administrative costs and reflect this inwardly, the labor costs would be lower.

Sen. NIXON: In effect then, aren't we in agreement in arriving at a conclusion that the savings, and I believe this is what is advocated by the proponents of the measure, the savings would be in terms of what is paid to labor?

Sen. PORTER: It might but it hasn't been the case in Vermont.

Sen. NIXON: Do you think that it is the realization that the savings, if any, would be at the expense of labor which caused the concern on the part of those of the labor movement who called you about this particular bill?

Sen. PORTER: Yes, probably.

Sen. SPANOS: Sen. Porter, this is just a question I don't know the answer to and I am hoping, because you were on the Committee, you might give it to us. We heard from Sen. Bradshaw that Vermont does not have the Davis-Bacon Act. How many states *do* have the mini Davis-Bacon Act?

Sen. PORTER: I am not on the Committee, first of all and I don't know the answer.

Sen. SPANOS: Does anyone know?

Sen. FERDINANDO: After spending six hours listening to both sides, I thought I owed it to myself to reflect my comments. I support Sen. Downing's amendment. I do so, not because the contractors in New Hampshire are driving cadillacs or have condominiums because if they do, I say all the more power to them. They earn it, they deserve their position and I am sure they paid a price for it. However, I support the amendment basically because I am concerned with the effect it will have on the part of the pensions that are concerned, as far as the welfare benefits are concerned and the effect on the unemployment that could conceivably take place in the State of New Hampshire. I feel that the amendment of Sen. Downing is a reasonable step in the right direction.

Sen. LEONARD: Mr. President, I rise in opposition to the minority report. This present law, Chapter 280 was passed some thirty years ago when this country was in the tail end of the depression. It was for the building industry. I don't think that is the case today. I was a member of the Nashua School Board for six years and had a lot to do with the construction of new schools. The construction of schools are way beyond the means of the average city or town. At the present time, Nashua is considering a \$15-20 million high school and two elementary schools for over a million dollars each. The passage of HB 328, if not amended, will save Nashua millions of dollars in the next five years when they complete these projects. I don't think that we are hurting the labor man, the union man. We are talking about 5 percent of construction workers with this Chapter 280. There is 95 percent left. There are a lot of small sub-contractors that can't get involved in these big jobs because they are not unionized and do not pay the schedule that is forced on the public when they construct buildings. Even if this amendment is passed, the big contractors will get all the big jobs because they are the only ones that are capable of being bonded for big jobs. We are not hurting the little guy who is not on construction. If we keep this law on the books, the little man will pay higher taxes because his city or town or state has to pay higher amounts for construction, which is necessary even though we

are short of funds in both the cities and the state. When proponents of the amendment refer to statistics on the projects, I think they are referring to the number of projects and not to the total costs of projects. This amendment makes this applicable to projects up to \$250,000 and is going to be, in my mind, a very small percentage of the money. The end of everything is how much it is going to cost.

I firmly believe that we are going to save money for the state and as Sen. Downing pointed out, he is concerned about the deficit. Next year we will probably have a bigger one. I know my city is hard pressed — their taxes are going up, the people are getting disgusted with paying more taxes, they are advanced all kinds of taxes and costs, they have to hold down their spending when they don't have the money, they just don't buy it. I think this bill without the amendment affects all the people favorably; we have to consider *all* the people, not just the 5 percent of the construction workers. I think it is a fair bill and for myself, I will look at the overall affect and not the affect of the 5 percent. The ones that I know that are union construction people are not starving and are not on welfare.

Sen. GARDNER: Mr. President, the contractors in my area are in favor of HB 328 without the amendment. The City of Laconia, and several in my town have contacted me in favor of this bill. No one else in my district has contacted me in opposition to the bill. Therefore, my constituents send me down and I feel that it is up to me to help the way they want me to.

Sen. NIXON: Mr. President, I rise in respectful opposition to the majority committee report and in support, without reservation, of the minority report which would amend HB 328 with the \$250,000 floor and tie the state law into the federal law in reliance on the wisdom of our President who saw his mistake, and corrected it in the best way he knew how by later rescinding the Executive Order whereby he had earlier cancelled the federal Davis-Bacon Act. I do so with the, in my case and in my judgment, a difficult burden of first defending to this body, my right to vote on this issue. Because it has been suggested to me by members of this body and of the body across the hall which I also entertain a deep respect for, that I should not vote because of Rule 42; that I should pair my vote with a fellow voting the other way; that I should preside at the debate on this bill and therefore be barred from voting or, "take a walk." And I do not

feel that any association that I have or sympathy I have with the working man or the labor movement in New Hampshire or elsewhere requires me, obliges me, or would even make it right for me to do any of those things, most particularly, to "take a walk."

Rule 42 of the Rules of the Senate says, "a member is not required to vote on any question which he believes he is directly interested." I am not directly interested in HB 328 one way or the other. I will not lose a dollar or gain a dollar regardless of how I vote on this issue. If what has been told to me is so, I will lose politically because it is said this bill, if passed, would help small towns. I represent sixteen small towns in this distinguished body.

It is true that much of my law work had to do with representing people who cannot be called wealthy contractors. It has to do with the representing of people who do not have much by way of sustenance or income in life. It is true that I was once a member of a union. It was a pea canning union in Wallawalla, Washington when I was in college and it is true that my partner, Robert Christy regularly represents the laborers' union in Manchester. But it is also true that upon being elected to the Legislature in 1969, I resigned as a corporator of a leading bank in Manchester so I would have freedom to vote on issues affecting banks and I resigned as general counsel to the New Hampshire Credit Union League, which paid a minimum of \$600 a year in exchange for the \$100 a year I receive as a legislator and more recently, I declined an opportunity to be a corporator of another leading bank in Manchester and a corporator's position to a young lawyer, if you will allow me to describe myself as young, is a means to get known and to be successful. I would hope that I do not have to defend my ethics in regard to taking a stand on this issue before anyone here because if I am barred by any rule or any code of anyone else's from voting on this issue, then I would suppose that no insurance man should vote on insurance bills, no lawyer should vote on bills affecting the judiciary, no banker or one affiliated with banks should vote on bank bills, no real estate man should vote on real estate bills, no selectman should vote on a bill which would affect towns at the expense of the state, and so on. If all that were so, there would be few votes passed here in New Hampshire on any issue.

Therefore, I am going to vote and I am going to vote against HB 328 in original form and in favor of the amendment. My reasons in deference to those who are voting the other way are that, I, in a sense, agree with the proponents of the bill who say it is not an anti-union bill because the union fellows are going to get their union scale negotiated for by collective bargaining agreement, whether this bill passes or not. There are not that many of them so that I think they, personally, will not be detrimentally affected, at least in the near future. There are approximately 1,000 carpenters, 100 painters, 300 plumbers, 400 masons, 600 laborers, and 200 electricians with the benefit of union protection here in New Hampshire at this time. With respect to the statistics on their average earnings in New Hampshire, which I have received from James M. Dawson, President of Dawson Associates, the administrator of almost all of the health, welfare and pension funds here in New Hampshire, and a respected leader with no axe to grind on either side in regard to employer-employee relations in New Hampshire, the travel trades last year, a no-strike period for them, averaged \$1200 at \$6 an hour roughly \$7200 a year. The painters, \$5,000. The carpenters, \$7,000. And those are the principal ones and the ones that I have had statistics sent to me.

I do not think, in the average case, we are talking about, in terms of the existence of RSA 280, a situation where anybody is getting a special privilege or bonus because I would submit that all of you would agree that nobody is getting a bonus who is trying to raise a family on that kind of income. Let us see what is said on behalf of HB 328 in original form. I dispute, as has been mentioned by others, with the bald-faced assertion that the passage of this act would save \$10 million a year to the taxpayers of New Hampshire. What is the evidence in support of that assertion? My own inquiries, and I have a batch of correspondence that you all have received in addition, have not indicated any such savings would result, even if all of the contractors involved did not raise their prices on materials, profit margins, executive salaries to make up the difference due to paying lower wages. But HB 328 contains no guarantee that they won't do that. In other words, what it would do if passed would enable contractors to bid at a lower wage scale, to be sure, but does not require them to reduce their profits proportionately, to reduce the prices on materials proportionately, or to reduce the other costs proportionately. So, who would benefit and who

would lose by the passage of HB 328? Certainly the contractors who otherwise, under the existing law, are required to pay union scale but are not unionized would benefit because they wouldn't have to pay their men as much for these jobs. I am sure that they are experiencing difficulty in jobs involving public funds because some of their labor is paid the scale and the other is not. The fellows who are not getting the scale want to get it and legitimately so. But that is not a reason for the adoption or passage of this bill.

The suggestion that there would be no drop in salaries if HB 328 is passed seems to me incredible in view of the claims of the proponents of the bill that that is exactly what would result. We are not talking about executive salaries; we are talking about hourly wages being reduced at a time, by the way, when, according to today's *Union Leader*, the per capita income here in New Hampshire is only \$3,608. Should our emphasis not be on increasing the wages of the working man rather than opening a door to allowing them to be reduced?

I have not experienced any taxpayer clamor in support of this bill. I have had 11 letters from non-union contractors in the southwest area of the state, plus I received four telegrams today on behalf of taxpayers but written by contractors. I received one letter from a taxpayers' association which did not identify its membership but was signed by a gentleman who is also a president of a non-union company. I received one letter from a school board in a district other than mine. No employee who is supposed to be saving taxes if this bill is passed ever contacted me and no unaffiliated taxpayer, unaffiliated that is with a non-union corporation, contacted me on this bill. But, I have heard also that this is not an anti-union bill and in a sense, that is true because, as I said before, the union workers are protected by their collective bargaining agreements in respect to what they are paid. It is actually an anti-working man bill, anti the working man who is not protected by the union. The fellow who is getting the \$2 and \$3 an hour which has been spoken of. It is in that sense that I think the bill should actually be viewed.

I would be willing, as I am sure all of you are, that if we are really going to get involved in combating inflation to have a general wage price, material cost, interest rate and otherwise freeze. But why are we asked to support a bill which would

freeze the money going to only one element and that, the lowest paid of all — that is the lowest profit paid of all those involved? I suggest to you that the amendments to this bill make it palatable, politically, will permit small towns to do the building they have to do without excessive cost to taxpayers and will, at the same time, leave the door open for encouragement of the payment of higher wages in New Hampshire which everyone, from the Governor on down, has advocated as one of our principal responsibilities. Banks are making money these days. Insurance companies are making money these days. The *New York Times* reports that the heads of the nation's largest banks all received larger salaries last year.

I would suggest that in our deliberations, we take a page from the book of Congress, the report of the Joint Economic Committee of Congress stated in part and I quote, "If a freeze is imposed, it should be general. A freeze should not be imposed on only one industry, nor should it be applied to wages without also being applied to other costs in addition, and including profits." I support the action of the President of the United States in re-establishing the Davis-Bacon Act, and I support the report of the minority committee, which would have the same effect here in New Hampshire.

Let us not seek the goal of economy under the false colors of tax saving at the expense of those who can least afford to pay and I am talking, when I say that, in terms of the employees in the construction industry who do not have the benefit of union protection.

Sen. BRADSHAW: Sen. Nixon, by your remarks, are you trying to have us believe that the people that bargain for the trade unions cannot do so, successfully, as they do in other unions?

Sen. NIXON: I do not understand the question.

Sen. BRADSHAW: Well, you said that if HB 328 was passed in its original form, it would have some adverse affect on the trade unions and it might put out a price freeze or their wages might go down.

Sen. NIXON: I don't think I said that. Sorry. But continue. I am sorry I interrupted.

Sen. BRADSHAW: I would really like to have a replay of what you did say because you indicated that this would have a detrimental affect on the progress of labor.

Sen. NIXON: I believe yes, using the word "labor" in the general sense, I believe it would. I believe it would discourage the paying of cost of living wages to non-union labor in particular. And I might say, in that regard, that is my firm belief that the reason non-union protected labor receives the wages it does is because of the union scale paid to the few of those who work with union protection.

Sen. BRADSHAW: Then, in line with what you just said, are you telling us that the bargaining agents for the trade unions can or cannot successfully negotiate for their membership?

Sen. NIXON: I am sorry, but I still don't understand the question. I believe, generally, bargaining agents *do*, to the best of their ability, having in mind all of the circumstances, the economic conditions, the market, so to speak, what can be paid, what can afford to be paid, do, certainly, attempt to represent successfully the fellows in their craft.

Sen. BRADSHAW: Perhaps I should rephrase in an attempt to try to make it clearer. At the present time, we have a great many unions here in the State of New Hampshire. I happen to have some in my area. Those unions received no benefit from RSA 280. They had their own bargaining agents who negotiate with the employer to establish their rates. They seem to be doing it rather successfully. Why do the trade unions need a special umbrella that no other union can enjoy?

Sen. NIXON: Well, I think the reason that I would say which would be part of the answer to that is that without the protection of the prevailing wage guarantee provided in RSA 280, they would not be receiving the wages they are now earning and certainly the employers would not be induced to pay them.

Sen. BRADSHAW: Then are you saying that the statute of the State of New Hampshire is doing the bargaining for the unions rather than the bargaining agents themselves?

Sen. NIXON: I would say that RSA 280, which has been on the books for thirty years, certainly is a help to those fellows in the bargaining process, yes. I would say further that it not

only helps those who are involved in the bargaining process in trades directly affected, but also *all* fellows engaged in the bargaining process because they can say that is the prevailing rate for these trades and we want our increase measured by what they are receiving. I think that is happening, not only with respect to trades not directly affected by RSA 280 but by the working men who do not have the benefit of union protection.

Sen. BRADSHAW: But the trade unions are the only ones that have the additional benefit of having the State of New Hampshire doing their bargaining for them. Is that correct?

Sen. NIXON: Yes, it's correct and if it's your suggestion that *all* the crafts, in addition to the building trade unions, should have the benefit of legislation such as RSA 280, I would be in accordance.

Sen. BRADSHAW: Would not that be deeply imposing on the normal bargaining procedures that are used with all unions?

Sen. NIXON: No. I don't believe so.

Sen. BRADSHAW: We might differ on that.

Sen. NIXON: It's not often we differ, but when we do, we *really* do.

RECESS

Sen. KOROMILAS: Mr. President, I rise in support of the pending motion. I think that we have listened to the proponents of the repeal of RSA 280. I don't think that a case has been made that satisfies me that there will be savings to the cities and towns or the state. If one makes an assertion that \$10 million is going to be saved by the state, cities and towns by repealing Public Law 280, and that's a considerable amount of money, I have yet to see anyone in this Chamber explain to us how this \$10 million is going to be saved. I think this is the onus the proponents have with respect to the repeal of the Public Law 280. On analysis, if you look to see what 280 does, you will find that it doesn't affect, as it has been said here already, all of the contractors in the State of New Hampshire. First, with respect to those jobs that have federal moneys, the repeal of 280 is not going to affect the wage structure in that particular area. With respect

to those contractors, the big ones, that have union contracts with their laborers, this repeal of 280 is going to do nothing.

Also, I think that the distinguished Chairman of the Public Works and Transportation did, in response to a question that the people who are least organized is the laborer. In other words, the building trades, starting up from the bricklayers down to electricians, mechanical people; they are all practically unionized. So, in those areas the repeal of 280 is not going to have much effect. That leaves the unorganized laborer that we are talking about. This is whom the repeal of 280 is going to affect.

I agree with the other speakers that are in favor of the amendment. I need not go through saying remarks, because it is getting later in the afternoon, but I want to make a point with respect to the prevailing rates in Vermont. There, they have never had a Davis-Bacon Act. Yet, on the information supplied to me, the prevailing rates are higher in Vermont than they are in New Hampshire. That only can mean, as far as my logic goes, that whether we have the 280 repeal that the wages of the price of contracts will go down.

Now, I think we all are aware that some contractors do take state contracts and what I am afraid of is this; if a small contractor does do state jobs, he does get a bonus for his workmen. In getting bonuses for his workmen, he has to distribute that work to all the people that work for him. So one day he puts on a man on a bonus job and switches them around so they all can get a bonus. It is estimated that the bonus to the person who is non-union amounts to about \$500-\$600 a year because the contractor has obtained a state job. Once you take away that bonus, it seems to me that the laborer would lose \$5-600 because there are no bonus jobs anymore. What we are telling the person who works for a small contractor is that he cannot get a bonus. That would mean that if the laborer were to lose \$5-600, he would ask one for an increase because he cannot take a cut. He can stay at the same level but he is not going to take a cut. He is either going to ask for an increase in his wages or he is going to unionize. That would mean *higher* costs to cities and towns.

I think, furthermore, this would have affect on the private sector that if the prevailing rates go higher, then you and I, whoever may want to build, will have to pay a higher

construction price. So since the proponents have not proved that there are going to be savings in the millions of dollars, since there are many areas in which union wages are going to prevail in any event, those are the reasons why I support the bill.

Sen. LAMONTAGNE: Mr. President, I move that HB 328 and its proposed amendments be made a Special Order of Business at 1:01 for Tuesday, May 4.

Adopted.

COMMITTEE REPORTS

HB 104

to provide life insurance for national guardsmen while on active state duty. Ought to pass. Sen. Leonard for Banks, Insurance and Claims.

Sen. FERDINANDO: Mr. President, HB 104 provides for the Adjutant General to have the availability of providing group life insurance coverage for members of the National Guard while they are on active state duty. The appropriation would be somewhere \$150 and it will come from the Adjutant General's fund. The Committee urges its passage.

Sen. KOROMILAS: Does this insurance also cover guardsmen on his way to duty and back home on the non-active portion?

Sen. FERDINANDO: My understanding is that, without knowing what policy this would be, the premium the state would pay to the group National Guard Association and whether or not there would be coverage from the time he was leaving his duty, I couldn't answer that without the contract. I would assume it would only cover him only while he was on active duty.

Adopted. Ordered to third reading.

HB 260

requiring insurance companies to pay the cost of physical examinations where the insurer requires them before extending liability coverage. Ought to pass with amendment. Sen. Ferdinando for Banks, Insurance and Claims.

AMENDMENT

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Insurer Pays Cost of Physical Exam. Amend RSA 412 by inserting after section 2-a the following new section: 412:2-b Physical Examinations. When an insurer requires any person to submit to a physical examination as prerequisite to issuance or delivery of any motor vehicle liability policy, the insurer shall assume and pay the cost of the physical examination.

Sen. FERDINANDO: Mr. President, this bill will require that when an insurance company has the prerequisite to deliver a motor vehicle liability policy which says that you must take a physical, they will be forced to pay the doctor's bill. The Committee felt that when the situation exists that when the company insists on making that person take a physical, that they should pay for the doctor's bill.

Sen. POULSEN: I rise in support of this motion. I have had several calls at home on the same subject and is something that increasingly is becoming a problem to older people. This bill takes care of the situation.

Adopted. Ordered to third reading.

HJR 21

in favor of William J. Wilson of Canterbury. Ought to pass. Sen. Leonard for Banks, Insurance and Claims.

Sen. FERDINANDO: Mr. President, HJR 21 is to reimburse William J. Wilson of Canterbury for losses sustained to an erroneous calibration of a bulk milk tank made by the authorized agents of the State of New Hampshire. What happened in 1959 is that the Bureau of Weights and Measures calibrated Mr. Wilson's milk tank and what appears to have happened is that in the process of calibrating, whereby they dumped a measured 5 gallons into the tank and put a stick in and made a mark on it, then dumped another 5 gallons in and put another mark until the whole thing is full but they neglected to count the first 5 gallons that they put in. The state official neglected to measure the five gallons and as a result, for 10 years when Mr. Wilson sold milk to the dairies, he gave them 5 more gallons than he was paid for due to this error in calibration. As a result of all this, the Committee felt that Mr. Wilson, because

of the negligence of the state official which was substantiated by Commissioner Buckley, that the calibration was off and Mr. Wilson was entitled to a justified claim from the State of New Hampshire in the amount of \$3,660.16 based on the cost of milk for that period.

Sen. KOROMILAS: You say this is a bill that goes back to 1959?

Sen. FERDINANDO: I should say that in 1969 is when the error was found.

Sen. KOROMILAS: I thought you said 1959?

Sen. FERDINANDO: The Bureau of Weights and Measures calibrated the tank in 1959 but the error was not found until 1969.

Sen. R. SMITH: How often does the Bureau of Weights and Measures return to recalibrate these things?

Sen. FERDINANDO: I don't know.

Sen. BRADSHAW: How often do they calibrate them, Sen. Townsend?

Sen. TOWNSEND: They do it once when the tank is first installed. They do it again only on request and the farmer has to pay the cost, but there is no set schedule for recalibration.

Adopted. Referred to Finance.

HJR 26

to reimburse Reginald Pelkey for damage done to his automobile and making an appropriation therefor. Ought to pass. Sen. Leonard for Banks, Insurance and Claims.

Sen. FERDINANDO: Mr. President, Reginald Pelkey, Fitzwilliam, New Hampshire had an automobile parked in his driveway when the Department of Public Works and Highways was cutting trees. They cut a tree which fell on Mr. Pelkey's automobile. Therefore, Mr. Pelkey put in a claim to the Claims Committee. The Committee felt that Mr. Pelkey was entitled to the sum of \$250 as full and final settlement for his claim.

Adopted. Ordered to third reading.

HB 654

relative to the associate degree programs of Keene and

Plymouth State Colleges. Ought to pass. Sen. English for Education.

Sen. BRADSHAW: I move that HB 654 and HB 578 be made a Special Order of Business for tomorrow at 1:01 and 1:02. Adopted.

SB 52

establishing a medical advisory board in the Division of Motor Vehicles, Department of Safety, and making an appropriation therefor. Ought to pass with amendment. Sen. R. Smith for Finance.

AMENDMENT

Amend RSA 261:3-CI, II, and III as inserted by section 1 of the bill by striking out the same and inserting in place thereof the following:

I. The board shall consist of six members; a physician in general practice, a neurologist, a psychiatrist, an ophthalmologist, an optometrist and an orthopedic physician.

II. The board members shall be appointed by the Governor and Council upon the recommendation of the Commissioner of Safety.

III. The board members shall be appointed for a term of two years.

Sen. R. SMITH: Mr. President, the amendment to SB 52 is printed on page 35 of today's *Calendar*. This bill sets up a medical advisory board in the Division of Motor Vehicles and contains an appropriation of \$3,000 for the year. What the amendment does is to add the professional group of optometrists as being represented on the board. Over the years, the optometrists have had a close-working agreement with the Division and it's been a harmonious agreement and we felt that it was not fair to eliminate them from consideration at this time.

The second part of the amendment makes the appointments to be made by the Governor and Council and recommendations by the Commissioner of Safety. The Committee felt that this was more in keeping with appointments as they are made in other statutes.

The third part of the amendment would put a term on the board members rather than having them serve at the will or whim of the Commission.

Adopted. Ordered to third reading.

HJR 8

relative to retirement credit for Herbert R. Hagstrom. Ought to pass with amendment. Sen. R. Smith for Finance.

AMENDMENT

Amend the resolution by striking out all after the resolving clause and inserting in place thereof the following:

That notwithstanding any provisions of RSA 100, 100-A, and 192, the widow of Herbert R. Hagstrom shall be entitled to receive benefits resulting from his membership in the New Hampshire retirement system calculated to allow credit for all his service as a teacher prior to July 1, 1954 upon payment of four thousand three hundred sixty-five dollars by his widow and payment of fifty-six hundred dollars by the Portsmouth School District to the New Hampshire retirement system; provided however that the Portsmouth School Board, prior to making its decision on whether or not to make said payment into the retirement system, shall hold a public hearing.

Sen. R. SMITH: The amendment to HJR 8 is also printed on page 35 and I will try to explain what it does. HJR 8 contains no state appropriation. Rather, it is a so-called buy-back bill for the state retirement system. Between the time the bill was drafted and introduced to the House and the present, Mr. Hagstrom has met with an untimely death. Consequently the bill was amended to refer to his widow rather than the individual himself. The bill also specifies who shall make the payments on the buy-back. Thirdly, it provides for a hearing, locally, in Portsmouth before the final determination to be made on this.

Adopted. Ordered to third reading.

Sen. R. SMITH: Mr. President, I move that the order whereby HJR 21, which was referred to the Committee on Finance be vacated and that the bill be ordered to third reading.

Adopted.

SB 62

establishing statutory rights in lieu of dower and curtesy. Ought to pass with amendment. Sen. Koromilas for Judiciary.

AMENDMENT

Proposed by Committee on Judiciary

Amend section 9 of the bill by striking out the same and renumbering sections 10 through 32 to read 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 31.

Sen. KOROMILAS: Mr. President, SB 62 was introduced in the last session with the same sponsor, sent to the Judicial Council and the Council recommends its adoption with some changes. The effect of the bill would treat a widow and a widower, in so far as the inequalities that now exist in this particular field the same. Secondly, if a person dies intestate a husband or wife would get the same result. Furthermore, with respect to setting up a statutory share, the person would have the same rights under distribution. Finally, where there are no heirs on either side, this would escheat to the state.

Adopted. Ordered to third reading.

SB 113

to increase the penalties for reckless driving and driving while intoxicated. Ought to pass with amendment. Sen. Jacobson for Judiciary.

Sen. NIXON: I move that SB 113 be made a Special Order of Business for tomorrow at 1:03 the reason being that this is Sen. Jacobson's bill, he was assigned to report on it and I believe he would prefer to do so. For this reason, I ask that it be deferred until tomorrow.

Adopted.

SJR 8

establishing a legislative committee to study the laws pertaining to motor vehicles and their operation and recommend revisions thereto. Inexpedient to legislate. Sen. Jacobson for Judiciary.

Sen. NIXON: SJR 8 provides for the establishment of a study committee to study the motor vehicle laws and so forth. The reason it is reported inexpedient to legislate is that, as indicated, it is covered by other legislation, namely an amendment to SJR 113, which will be discussed tomorrow.

Resolution adopted.

SB 19

relative to convictions of persons under intoxicants or influence of drugs. Inexpedient to legislate. Sen. Nixon for Judiciary.

Sen. NIXON: Sen. Snell introduced SB 19 which stiffens the penalties applicable in the case of convictions of persons under intoxicants or under the influence of drugs. In that effect, SB 19 and SB 113 were combined and the Committee worked out what it thought to be a fair amalgamation of the bill. SB 19 is covered by other legislation.

Adopted.

SB 114

increasing the penalties for reckless operation of a motor vehicle. Ought to pass. Sen. Koromilas for Judiciary.

Sen. KOROMILAS: SB 114 derives from a situation in the Seventh District where a person was killed and the court levied a *very* minor fine for loss of life. What this bill does is to increase the minimum and also raises the maximum for situations where either death or reckless driving does occur.

Adopted. Ordered to third reading.

SB 115

to require pedestrians to wear reflectorized material on their clothing when walking on the roadway at night. Inexpedient to legislate. Sen. Downing for Judiciary.

Sen. DOWNING: The Committee recommendation, based on while it was a meritorious idea, it did not seem to be a very practical one. I urge your support of the Committee report.

Sen. Porter in the Chair.

Resolution adopted.

SB 116

to prohibit individuals from soliciting rides or business on or in proximity to the traveled portion of a street or highway. Ought to pass with amendment. Sen. Leonard for Judiciary.

AMENDMENT

Amend section 1 of the bill by striking out the same and inserting in place thereof the following:

I Soliciting Rides. Amend RSA 262-A:38, I as inserted by 1963, 330:1 by striking out said paragraph and inserting in place thereof the following new paragraph: I. No person shall stand or walk on or in proximity to the traveled portion of a Class I or II highway for the purpose of soliciting a ride, employment or business from the occupant of any vehicle.

Sen. NIXON: Mr. President, the existing law provides that no person shall stand in the traveled portion of the roadway for the purpose of soliciting a ride, employment or business from the occupant of any vehicle. SB 116, sponsored by Sen. Jacobson and as amended by the Committee would prohibit any person from standing or walking on, or in proximity to the traveled portion of a Class I or Class II highway for the purpose of soliciting a ride, employment or business from the occupant of any vehicle. The purpose of the bill as amended is to make illegal the hitching or hiking of rides on the high speed highways in New Hampshire. The evidence before the Committee was that such hitch-hiking has caused a considerable safety hazard, not only to the pedestrians themselves but also to the occupants of vehicles who stop near high speed exits or entries of the highways. The Committee recommendation amounts to a balancing of the considerations in favor of allowing students to hike rides and those in support of protecting those students from injuries that are occasioned to hitch-hikers and also to high speed traffic on the highways. The Committee amendment restricts the prohibition to Class I and Class II highways which generally are your interstate highways, expressways and main state roads.

Adopted. Ordered to third reading.

SUSPENSION OF RULES

Sen. POULSEN: Mr. President, I move suspension of the rules on SB 121. This bill only had one day's notice of hearing in the *Journal*.

Adopted.

SB 121, applying the coverage of the Highways Relocation Assistance Act by project number. Ought to pass with amendment. Sen. Poulsen for Public Works and Transportation.

AMENDMENT

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Assistance by Project Number. Amend RSA 233-A: (supp) by inserting after section 9 the following new section: 233-A:10 Eligibility. The relocation assistance provided herein shall be available to those persons who were adversely affected by any highway activities after the effective date of this chapter. and to all displaced persons on a specific project, for any activity prior to August 23, 1968, if said payment has been made to any owner on the project.

Sen. POULSEN: Mr. President, SB 121, introduced by Sen. Foley was to straighten the situation that was left, particularly in Portsmouth, on settling for relocated persons and houses. The original law as defined by the state had a date rather than a project number so that the people who had been relocated, when more federal money came, were unable to get it because the law had a date and the date had expired. If it had been written as a project number rather than a date, it would have continued. The amendment to this bill, which is in the *Calendar* on page 37, does give the date for possible settlement of those prior claims. The Committee urges that the bill and amendment be passed.

Amendment Adopted. Ordered to third reading.

ENROLLED BILLS REPORT

HB 31, relative to filing of annual returns by corporations, reservation of a name by a foreign corporation, and monthly returns of quantity of alcoholic beverages sold.

HB 82, relative to financial reports of housing authorities.

HB 115, relative to the control of junkyards on the interstate, federal-aid primary, and turnpike highway systems.

HB 201, relative to donation of blood by minors.

HB 302, relative to injury to domestic ducks or fowl by hunters.

HB 339, relative to the construction of area schools and additions thereto.

Sen. Ferdinando
For The Committee.

Sen. S. Smith moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by

title only and resolution by captions only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock.

Adopted.

LATE SESSION

Third reading and final passage

HB 104, to provide life insurance for national guardsmen while on active state duty.

HB 260, requiring insurance companies to pay the cost of physical examinations where the insurer requires them before extending liability coverage.

HJR 26, to reimburse Reginald Pelkey for damage done to his automobile and making an appropriation therefor.

SB 52, establishing a medical advisory board in the Division of Motor Vehicles, Department of Safety, and making an appropriation therefor.

HJR 8, relative to retirement credit for Herbert R, Hagstrom.

SB 62, establishing statutory rights in lieu of dower and curtesy.

HJR 21, in favor of William J. Wilson, of Canterbury.

SB 114, increasing the penalties for reckless operation of a motor vehicle.

SB 116, to prohibit individuals from soliciting rides or business on or in proximity to the traveled portion of a street or highway.

SB 121, applying the coverage of the Highway Relocation Assistance Act by project number.

Adopted.

Sen. McCarthy moved the Senate adjourn at 4:06 o'clock.

Adopted.

*Thursday**29Apr71*

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Guest Chaplain, Rev. James Scotland, Jr. of the Bedford Presbyterian Church in Bedford, New Hampshire.

Our Lord and Our God, we beseech Thy mercy, for we have so little mercy in our own hearts.

Yea, Lord, we are always giving, and in large amounts; but we give largely because the distress about us disturbs us and keeps us from the matters of our own concern.

Yea, Lord, we long for peace. We are heart sore and weary of war. Preserve us, however, O Lord, from dreaming that peace can be without cost, or sacrifice, or pain. Help us to be as responsible towards the costs of peace as we have been profligate towards those of war.

Teach us all, O Lord, more and more what love is; how love should act; how love makes us merciful as individuals, as states, as a nation. We pray in the name of Him who loves us enough that He died for us all, even Jesus Christ Our Lord. Amen.

Pledge of Allegiance was led by Sen. Poulsen.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 190, to establish a state liquor store in New London and making an appropriation therefor. (Jacobson of Dist. 7 — To Ways and Means and Administrative Affairs.)

SB 191, relative to abandoned boats. (Smith of Dist. 3 — To Recreation and Development.)

SB 192, relative to the policemen's retirement system. (Koromilas of Dist. 21 — To Ways and Means and Administrative Affairs.)

SJR 16, reimbursing the members of the committee studying the economic potentials and development potentials of Mount Sunapee State Park for mileage expenses incurred. (Jacobson of Dist. 7 — To Finance.)

SJR 17, making an appropriation for the 1972 national ski jumping championship to be held at the Nansen Ski Club. (Lamontagne of Dist. 1 — To Finance.)

SJR 18, establishing a commission to study the feasibility of a three-year high school curriculum and making an appropriation therefor. (Jacobson of Dist. 7 — To Education.)

SJR 19, reimbursing the City of Portsmouth for the relocation of certain water lines and making an appropriation therefor. (Foley of Dist. 24 — To Public Works and Transportation.)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 48, permitting the reapportionment of cooperative school boards to provide for equal representation. (Education)

HB 588, to correct a typographical error in the Revised Statutes Annotated. (Executive Departments, Municipal and County Governments)

HB 640, establishing a line item budget for the City of Manchester. (Manchester Delegation)

HB 648, enacting an insurance holding company act. (Banks, Insurance and Claims)

HB 663, adopting the uniform act on paternity. (Judiciary)

HB 666, permitting eighteen year olds to entertain in lounges and dining rooms. (Ways and Means and Administrative Affairs)

HB 682, to amend the charter of St. Paul's School. (Education)

HB 706, changing part of the boundary line between the towns of Deering and Hillsboro. (Executive Departments, Municipal and County Governments)

HB 717, authorizing New Hampshire College to confer academic degrees and honorary degrees. (Education)

REQUEST FOR COMMITTEE OF CONFERENCE

On motion from Sen. S. Smith, the Senate voted to accede to House request for a Committee of Conferences on:

HB 277, relative to the power of New England Aeronautical Institute to grant degrees.

The Speaker appointed as members of said committee on the part of the House, Reps. Bowles, Greene and Lemieux.

The President appointed as conferees on the part of the Senate, Sens. English and Downing.

HOUSE AMENDMENT TO SENATE BILL

SB 16, relative to the establishment of the position and salary of the Associate Justice of the Nashua District Court.

(See HJ 5-28-71, p. 915-916 for amendment.)

Sen. LEONARD: I move that the Senate concur with the amendment as offered by the House. When SB 16 passed the Senate, it provided for another part-time or associate justice in Nashua. The House Judiciary Committee had two or three executive sessions on it just after the public hearing and they changed the effective date on it from July 1, 1971 to January 1, 1972. Yesterday on the floor, they changed it to July 1, 1972; they added six months to it. The main amendment that the House Judiciary Committee had was that they made the associate judge as full-time judge instead of just a part-time judge.

Adopted.

HOUSE CONCURRENCE ON

SB 38, authorizing town bylaws on snow removal.

SENATE ADOPTION OF ENROLLED BILLS AMENDMENT

HB 47, relative to traffic surveys and truck weight surveys. Ought to pass with amendment. Sen. Ferdinando for the Committee

AMENDMENT

Amend section 1 of said bill by striking out the second and third lines and inserting in place thereof the following:

RSA 229 by inserting after section 6-a the following new section: 229:6-b Traffic and Weight Surveys. The commissioner may conduct.

Sen. LAMONTAGNE: I would like someone to explain the amendment.

Sen. FERDINANDO: It merely changes 6-a to 6-b. That is the only change.

Amendment Adopted.

ENROLLED BILLS REPORT

HB 61, relative to fish and game licenses issued by the Fish and Game Department.

HB 83, relative to taking wild black bear.

HB 297, relative to taking deer with single shot muzzle-loading firearms.

HB 315, providing that minors who have completed a hunter safety instruction course in another state be recognized as competent to handle firearms in this state.

Sen. Ferdinando
for the Committee

COMMITTEE REPORTS

SB 107

to reorganize the commission on interstate cooperation and make an appropriation therefor. Ought to pass. Sen. Leonard for Executive.

Sen. LEONARD: Mr. President, the present committee consists of fifteen members which was unworkable. This bill cuts it down to seven members. Anytime you get a committee over three, in my opinion, you have too many members. It also includes a \$3,000 appropriation to pay expenses.

Adopted. Referred to Finance.

SB 109

legalizing the annual meeting of the Town of Goffstown, March 9, 1971. Ought to pass. Sen. S. Smith for Executive.

Sen. S. SMITH: Mr. President, this is a legalizing bill for town meeting. I would just like to read a paragraph from a letter from the Town Council for the reasons for this bill.

“The Town of Goffstown, at a previous meeting, had adopted RSA 339:2-a which deals with having two sessions at the annual town meeting. The first session for choice of town officers and the second session for the transaction of other business. The officials of the town had overlooked the directive of said statute and held both the election of the officials and the business meeting on the same date. Also, zoning amendments were enacted at this town meeting and legalizing said meeting would bar any future attack on the procedure of enactment of said amendment.”

I hope the Senate will go along with the Committee.

Adopted. Ordered to third reading.

SB 111

permitting any town to account on a fiscal year basis, permitting semi-annual tax collection in all towns and providing for an optional town meeting date. Ought to pass. Sen. Jacobson for Executive.

Sen. JACOBSON: Mr. President, during the 1969 session of the Legislature, there were several bills relating to the change of town meeting, twice a year tax collection and the changing of the municipal year in general from the calendar year to the fiscal year. The Interim Legislative Study Committee appointed a sub-committee on municipal revision to study these three bills that were submitted to them. A survey was set up which asked a series of questions of municipal officials. Out of the 234 cities and towns, there was a return of 110, which I understand is very good. This study indicated that there were a number of cities and towns who were interested in all three propositions, especially the twice a year tax collection proposition. There was opposition from some of the small towns with regards to town meeting and the changing of the municipal year from the calendar year to the fiscal year. As all of you know, under the present statute, cities and towns of over 10,000 population have a permissive allowance to change from the calendar year to the fiscal year.

What this bill does is to generalize that so that *any* town may, at a town meeting or the city, by action of its board, change

from the calendar year to the fiscal year. The basic reasoning behind this is to provide a closer relationship of revenue and spending. The major spending effort of the municipalities relates to the school districts and their expenditures which already are on the fiscal year, that is the July 1 to June 30. Therefore, spending of the major portion of the municipality, on the basis of a fiscal year, would then be related in terms of the total appropriation.

Secondly, the thrust of this bill is to reduce a great deal, hopefully with respect to borrowing in anticipation of taxes which, at the present time, has risen very rapidly because of the rapid increases in school expenditures. The intention of the twice a year revenue collection is directed to that same objective in order to get a more even flow of revenue in relationship to expenditures.

The third portion of this bill relates to establishing a flexibility with respect to town meetings. As many of you know already, town meetings are held on variant dates from the established law. They are begun on the day and recessed to another day which may be more convenient to that town. What this bill does is allow that flexibility so that town meeting may be held within the first 15 days of the month of March or the first 15 days of the month of May. That change is related to the change from calendar year to fiscal year.

I might add, as a historical note, that in the 19th Century, towns had the liberty of having town meeting on *any* day in the month of March and in a sense, we are returning to that flexible position. The bill, in essence, does these three things.

Finally, I would add that this does not, in any way, change the Presidential Primary date which is under a different statute in Chapter 59.

Sen. MORRISSETTE: Why was the semi-annual tax collection limited to towns and did not include cities?

Sen. JACOBSON: I don't find that that is true. It says "cities and towns."

Sen. MORRISSETTE: In my copy, it only mentions towns but I didn't read the entire bill.

Sen. JACOBSON: *Any* city or town, regardless of size,

may have semi-annual tax collections.

Adopted. Ordered to third reading.

SB 122

providing that all ballots cast on any question amending the Constitution shall be counted by the Secretary of State. Inexpedient to legislate. Sen. English for Executive.

Sen. FERDINANDO: Mr. President, SB 122 provides that all ballots cast on any questions amending the Constitution shall be counted by the Secretary of State. The Committee felt that this would set up an entirely new precedent and it was not feasible at this time. Therefore, although there were many good arguments that there are a lot of Constitutional Amendments that are not being counted because of the late hours that the ballot inspectors are exposed to. However, it also felt that it would be an added expense to the state and the Committee, in its wisdom, felt the bill should be inexpedient to legislate.

Sen. LAMONTAGNE: I move that the words, "ought to pass" be substituted for "inexpedient to legislate." Right now, the cities and towns have been given a lot of extra work by the members of the General Court by having these Constitutional Amendments appear on a special ballot. This has resulted in much overtime for counting these ballots and those who must do the counting are not being paid for their extra work. In my city, the supervisors and those that are involved in the counting had to do this work at 3 and 4 o'clock in the morning and never received any compensation for their additional time. The last time we had Constitutional Amendments brought before the people, there resulted errors in the count and this time, we have even more amendments, therefore I feel that these ballots should be turned over to the state staff for counting. It would be much more efficient.

Sen. POULSEN: I rise in opposition to the motion made by Sen. Lamontagne. I think that it is definitely a town's function to count the votes cast in the town and I don't think we want to get into having the Secretary of State do a function that is purely a town job.

Sen. JACOBSON: Mr. President, I rise in opposition to the pending motion for the following reasons. First, as Sen. Poulsen has already stated, this has been the historic function of the towns to count their own ballots. Secondly, it would be an ad-

ditional expense to the state and if there are some problems with paying counters in the cities and towns, then I think the towns could take up in that direction. Thirdly, there is a House Bill which is presently in the Executive Committee which establishes a commission to study election laws and I could see that this would be another aspect that they could study and come up with some answer whether this, in fact, is a problem. Fourthly, if they should count the ballots under the supervision of the Secretary of State, this would not preclude the possibility of having a recount so that they, themselves, might have to count it twice in the end anyway. The only times that we do have recounts and when there is a problem is when the vote is very close as in the instance of the vote regarding annual sessions. I think this bill takes a very wise step that needs some further study.

Sen. LAMONTAGNE: After listening to the senator from the Seventh District, I withdrew my motion to substitute the words, "ought to pass" for "inexpedient to legislate" and move that SB 122 be sent to the Legislative Study Committee. After listening to Sen. Jacobson, I believe that I would agree with him and I feel that it could merit more study.

Adopted. Referred to Legislative Study Committee.

HB 426

clarifying the powers of assistant moderators to administer oaths. Ought to pass. Sen. Poulsen for Executive.

Sen. POULSEN: HB 426 applies to such towns as have more than one polling such as the Town of Haverhill which is in several villages, each of which has its own polling place. The moderator, in such a case, appoints an assistant moderator and this bill gives the assistant moderator the right to administer oaths to this own crew; the people who run the election and count the votes. It has nothing to do with the action in town meeting; just in the counting of votes. The Committee recommends its passage.

Adopted. Ordered to third reading.

HB 443

increasing the debt limit for school construction in the Town of Bedford. Ought to pass. Sen. Jacobson for Executive.

Sen. JACOBSON: Mr. President, what this bill does is to provide added relief with respect to the debt limit of the Town

of Bedford in order that school construction can take place.

Adopted. Ordered to third reading.

HB 490

relative to the New Hampshire annual conference of the Methodist Church. Ought to pass. Sen. Ferdinando for Executive.

Sen. FERDINANDO: Mr. President, HB 490 does one thing; it adds the word, "united". The existing statute read "Trustees of the New Hampshire annual conference of the Methodist Church." Passage of this bill would now make it read, "Trustees of the New Hampshire annual conference of the *United* Methodist Church." The reason for this is that various Methodist groups have now come together and by changing this wording, it keeps the chapter in uniform. The Committee recommends its passage.

Sen. S. SMITH: I would just like to draw the Senate's attention more closely to this bill in that it is being passed in the spirit of ecumenism due to the fact that this bill deals with the Methodist Church, was introduced by a member of the Greek Orthodox Church and was being reported in by a member of the Roman Catholic Church. I think this is in keeping with the times.

Adopted. Ordered to third reading.

SB 47

relative to salary increases upon certification and eligibility for certification of certain medical personnel. Ought to pass. Sen. S. Smith for Finance.

Sen. R. SMITH: Mr. President, salaries for professional medical and dental personnel within the classified system of our state, in some cases, are pitifully inadequate. I cite, for an example, the starting salary for a dentist, full-time, at the Laconia State School is \$12,000. What this bill attempts to do is to provide the same pay treatment currently enjoyed by psychiatrists, that is, upon a person's becoming board eligible, he can have a \$1,000 increase in salary. Upon becoming board certified, he is eligible for a \$3,000 increase in salary.

Sen. MORRISSETTE: How much will this cost the state?

Sen. R. SMITH: There is no appropriation attached to the bill and it is difficult to ascertain how much it will cost, de-

pending upon the number of people who will be board certified, eligible or certified.

Sen. MORRISSETTE: Did the Committee check into the possible indirect costs?

Sen. R. SMITH: There are approximately 12-15 individuals in the classified state service that could be affected by this.

Sen. MORRISSETTE: How much would those salaries rise past the \$12,000?

Sen. R. SMITH: If they are board certified, if they are eligible for certification, this provides for an increase of \$3,000.

Adopted. Ordered to third reading.

SB 83

making an appropriation for an addition to Snively Arena. Ought to pass. Sen. Foley for Finance.

Sen. FOLEY: SB 83 allows for the building of an addition to Snively Arena on a self-liquidating basis.

Because of the tremendous increase in the interest of students, their families and friends and alumni of the University in the athletic program, particularly hockey, the seating capacity of Snively Arena is not large enough to fill anywhere near the requests of all wishing to attend the events.

At the present time, there are 4,000 seats, 3,000 for students and 1,000 for faculty, friends and alumni. The proposed addition to Snively Arena would increase the number of seats available by 2,200 seats or raise the capacity from the current 4,000 to a total capacity of 6,200 seats. It would also provide additional toilet facilities and possibly another classroom and locker room but does not enlarge the playing area.

The student population is currently approximately 7,000. The University, however, has a projected enrollment of approximately 10,000 students.

Snively, in addition to being the indoor ice rink, is also used for physical education classes for men and women, recreation skating, and area high school hockey team practices, and intramural programs, tennis, dances and commencements.

Based on present ticket costs, it is believed that the expansion can be self-liquidating in 20 years.

<i>Computations:</i> Annual Income	\$43,500
	x20 yrs
	<hr/>
	\$870,000
Cost of Construction	558,000
Interest for 20 yrs. @ 4¼%	250,000 (approximate)
	<hr/>
Approximate total cost	\$808,000

Sen. FERDINANDO: Sen. Foley, in view of the financial situation in the State of New Hampshire at this time, assuming that we are in a mild crisis, would you call this a priority?

Sen. FOLEY: No and I would never put my name on a bill if I was going to ask that this be done in our budgets, but this is self-liquidating cost to be borne over a 20 year period and I do not feel that this was adding any additional burden to the State of New Hampshire.

Sen. SNELL: I would like to rise in support of SB 83 and to answer, if I might, Sen. Ferdinando's question about fiscal caution in the 1971 session of the Legislature. I would like to quote from Phil Chase, the sports editor of the "Sunday News" of the *Manchester Union Leader*. "Fiscal caution is not just desirable in New Hampshire these days. It's absolutely mandatory and anyone with an idea that would cost just one tax dollar had better think twice. It might be the last one the state owns. Proposed projects in the non-essential category should either cost nothing or be able to pay their own freight, two very unlikely situations. It was because they believe the project will pay for itself that proponents of expansion of the University of New Hampshire's Snively Arena are pushing for approval during this state's current fiscal problems. What is sought is not an outright expenditure by the state but a bond which will self-liquidate over 20 years at a combined expense of more than \$800,000 both for principal and interest."

May I point out that this structure, two years ago, was estimated at \$440,000. Today the same structure is estimated at \$558,000 and in the next session of the Legislature, the cost could rise close to \$700,00. As Sen. Foley pointed out, the seating capacity is around 4,000 with the addition of 2400-2600 seats, will become the largest inter-collegiate hockey rink in the United States. There are other reasons why I feel that this pro-

posal should see passage today, not only for the hockey program at the UNH but because of one added factor—with the addition of 2400-2600 seats, we will be able to attract, for the first time to northern New England, ice follies, ice shows and engagements that can accommodate close to 6500 seating capacity that will not only help the seacoast area, but the entire state and also be a revenue source. I want to point out three hockey games that will be coming to the UNH next year that I was made aware of today. Ohio University will be on the campus December 14, North Dakota will be at the UNH December 29-30 and they rank third in the nation. January 31, St. Louis University will be there also to participate in the hockey program. I certainly hope that you will see fit to pass this bill and it will not cost the state one penny.

Adopted. Ordered to third reading.

SB 98

increasing the state guarantee for certain school construction programs. Ought to pass. Sen. Spanos for Finance.

Sen. SPANOS: Senate Bill 98 was the bill we heard last Wednesday and which calls for the increase of the state guarantee for certain school construction programs from \$20 million to \$40 million. This machinery helps school districts to borrow money at lower interest rates and to date, it has meant savings of \$500,000.00.

If you remember I told you that the New Hampshire School Building Authority had just about exceeded the authorized statutory guarantee of \$20 million and requests by other school districts contemplating construction could reach close to \$20 million. Allentown and Londonderry are this minute waiting an O.K.

The State Treasurer, who was out of town, did not appear at the Finance hearing, but sent us a letter wholeheartedly supporting Senate Bill 98.

The Chairman of the N. H. S. B. A., Henry Mahoney, read several letters to us from bonding counsel indicating that the credit of the state is no way jeopardized by increasing the guarantee maximum.

As you also remember, last Wednesday I was unable to answer Sen. Koromilas's question as to what the last sentence

in Section I meant and which reads "in the event that state funds shall be so used, the state may recover the amount thereof as provided in RSA 530."

This means that if some town or school district defaults on the payment of its bonds and the state has to make the payment good as per its guarantee, then the state may, by execution, sell the goods and estate of the towns and school districts as in the case of execution against an individual.

Adopted. Ordered to third reading.

SB 73

defining and providing for the licensing and regulation of real estate brokers and salesmen; providing for the New Hampshire Real Estate Commission defining its powers and duties; and imposing penalties for violations of this chapter. Ought to pass with amendment. Sen Nixon for Judiciary.

Sen. POULSEN: I move that SB 73 be made the first order of business for next Thursday, May 6th at 1:01. Mr. President, the material in this bill and its amendment is very voluminous, it would take at least that long to do any kind of a thorough reading of it, and I feel we need the time to study the bill before we can intelligently vote on it.

Sen. NIXON: As Sponsor of the bill and Chairman of the Senate Judiciary Committee, I have no objection whatsoever to this bill being held over for one week, the amendments are voluminous and the bill itself is voluminous and I was thankful when Sen. Poulsen extended me the courtesy yesterday of advising me he was going to make the motion now pending so I didn't have to spend all last night studying the bill again in order to get it ready for presentation today.

PARLIAMENTARY INQUIRY

Sen. MORRISSETTE: Is it proper to make a motion to refer a bill to Legislative Committee when you have a motion like the one that has already been made.

The CHAIR would state no.

Adopted. SB 73 made a Special Order.

SB 146

authorizing the prosecution to take depositions of certain witnesses in criminal cases. Ought to pass. Sen. Koromilas for Judiciary.

Sen. NIXON: In the absence of Sen. Koromilas, the sponsor of this bill, Mr. President, I would report that SB 146 was sponsored at the behest of the N.H. Judicial Council and had the support of the N.H. Attorney General's Office through Assistant Attorney General David Suter and Attorney John Pendleton appeared for the Judicial Council and there was no opposition to the bill. Its purpose, Mr. President, is to permit the taking of the deposition, that is, sworn testimony which is then transcribed in written form of witnesses in cases where there is reason to believe, on determination of a justice of the Superior Court that otherwise the witness might not appear at the trial by reason of fear for his life or physical well-being. In other words, the case where, as has happened according to the testimony before the Committee, the offense alleged was of such a nature and the parties involved were of such natures that a witness refused to testify at the time of trial and indicated that his or her refusal was based on fear for his or her physical well-being or life or family.

The procedure that would be followed under SB 46 is that if the state or county attorney, as the case might be, desires to take the deposition of a witness in such circumstances, a petition would have to be submitted to the Superior Court and the Court would have a hearing on whether or not the petition should be granted. The defendant would be entitled to notice to appear at the hearing and have his rights and interests protected and then if the petition were granted, the deposition of the witness whom it was thought might otherwise not testify or have his testimony available in court could then be taken.

There was no objection to the bill at the time of the hearing.

Adopted. Ordered to third reading.

HB 203

relative to professional services. Ought to pass with amendment. Sen. Nixon for Judiciary.

AMENDMENT

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Liability Clarified. Amend RSA 507 by inserting after section 8-a the following new section: 507:8-b Strict Liability

and Implied Warranties Limited. It is expressly declared that no strict liability in tort, nor any implied warranty, attaches to the procurement, furnishing, donation, processing, distributing, or use of whole blood plasma, blood products or blood derivatives for the purpose of administering, injecting or transfusing any of them into the human body, if no remuneration is paid therefor, and if such administering, injecting or transfusing results in the recipient becoming subject to the disease of hepatitis, and no person, firm, or corporation participating therein shall be liable for damages except for negligence.

Sen. NIXON: Mr. President, HB 203, sponsored by Rep. Alice Knight of Hillsborough District Four, was sponsored at the behest of the New Hampshire Medical Society and in original form, it would have insulated the hospital involved and anybody involved in the process of transfusion of blood, transplanting tissues, eye tissues, skin tissues and other such substances from liability under the so-called doctrine of strict liability or warranty.

Very briefly, the doctrine of strict liability, as it is developing in court decisions and legislation across the country, provides that if someone places in the stream of commerce, so to speak, a substance or device which is inherently dangerous to life or limb and actual injury does result to a recipient or user thereof, then there is liability even if the person responsible for such dissemination was using due care. This doctrine has, in a couple of court decisions, been applied to the transfusion, I think, of blood in particular, when hepatitis, a very dangerous disease resulting in death in some cases has resulted to the recipient of the blood and also the testimony was that there is no way that a hospital or a doctor can test blood so transfused in advance and detect the presence of infectious hepatitis.

The reason for the bill as first introduced was to protect the doctors and hospitals involved in the transfusing process against liability for injury and disease that might result in the cases of blood and also, however, the language of the bill was brought in to cover this in the cases of transfusion or transplanting of tissue or cornea transplants and so forth. The Committee's amendment, because of the testimony, was restricted to the area of blood transfusions. The Committee did not think that it should extend the immunity from liability, under the strict-liability

doctrine, to substances other than blood. So that is what the amendment does; it limits it to the blood situation and also provides that the immunity does not pertain if a charge is made of the transfusing of the blood. The emphasis in the testimony in support of the bill having been that in most cases, no charge is made for the transfusing of blood and it is termed a service rather than the provision of an article. With the amendments, the Committee recommendation is "ought to pass as amended."

Adopted. Ordered to third reading.

HB 149

relative to the dollar limitation on recovery in wrongful death actions Ought to pass with amendment. Sen. Nixon for Judiciary.

AMENDMENT

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Wrongful Death Actions. Amend RSA 556:12 by striking out said section and inserting in place thereof the following: 556:12 Damages for Wrongful Death, Elements. If the administrator of the deceased party is plaintiff, and the death of such party was caused by the injury complained of in the action, the mental and physical pain suffered by the deceased in consequence of the injury, the reasonable expenses occasioned to his estate by the injury, the probable duration of his life but for the injury, and his capacity to earn money during his probable working life, measured by his probable gross earnings during such period, without reduction by reason of the application of any discount factor or on account of the probable expense of the maintenance or subsistence of the deceased had he survived, may be considered as elements of damage in connection with other elements allowed by law.

2 Limitation. Amend RSA 556:13 (supp) as amended by 1957, 91:1; 1963, 98:1 and 1967, 344:1 by striking out said section and inserting in place thereof the following: 556:13 Limitation of Recovery. In cases where the plaintiff's decedent has left neither a widow, widower, child, father, mother, grandfather, or grandmother, the damages recoverable in any such action shall not exceed sixty thousand dollars. In all other cases the damages recoverable in any such action shall not exceed one hundred twenty thousand dollars; provided, however, that in

the trial of any such action by jury, the jury shall not be informed of the limitation of recovery imposed by this section, and if the jury awards damages in excess of such limitation the court shall reduce the amount of damages awarded to conform to such limitation.

Further amend the bill by renumbering sections 2 and 3 to read 3 and 4.

Sen. NIXON: Mr. President, HB 149 was sponsored by Rep. David Bradley of Hanover and in original form in the House, it would have abolished the limitations on recovery available in New Hampshire for negligently caused death. At the time of the introduction of the original bill, if a person was negligently killed by another in an automobile accident or otherwise, the maximum amount, if he had no dependents, his estate could recover would be \$20,000 for his life. If he had dependents or the types specified in the existing law, the maximum amount of the worth of his life was \$60,000 and that would pertain to everyone here who has a family.

The House Bill would have abolished the limitations altogether, which, I believe, is the majority situation across the country. But the House, in its wisdom, amended the bill and merely increased the applicable limitations from \$20,000 to \$30,000 in the case of the non-dependent situation and from \$60,000 to \$120,000 in the case of the dependents situation. The Senate Judiciary Committee, with such wisdom as it has, further increased the limit in the one case, without dependents, from \$30,000 to \$60,000 and left the other limit applicable but then went further and got involved in the process by which the amount of recovery is undergone and provides, in the amended bill, that there will be no discount factor from the date of probable working life expectancy to the present time, as is now the procedural mechanism by which the total amount awarded is allowed, nor would there be any deduction by reason of the probable expense or the decedents subsistence or maintenance had he lived during the expectable life that would be applicable by statistics as opposed to having them killed in an accident.

The bill before you now in the double amended form, so to speak, provides that a person, without being survived by the designated individuals who are set forth in the bill, widow, widower, or child, father, mother, grandfather, grandmother,

etc., could have recovered for his estate a maximum of \$60,000 and if that person had dependents or persons surviving him, in the classes designated, the maximum amount, regardless of what his earning capacity otherwise might have been, the maximum amount allowable to those people is \$120,000. That amount is calculated, in part, by determining his probable working life expectancy and his probable gross earnings during that period based on the type of work he was doing at the time of his death or would probably have done based on his family situation without any discount factor by reason of any applicable rate of interest or any reduction by reason of what it probably would have cost to maintain him during the period of his probable working life expectancy had he survived.

I think it fair to say it was felt by the Committee that even with the limitations, this bill as amended, puts a fairer price on a person's life in New Hampshire than certainly is the case at the present time because it has often been said, in connection where the cause of death by negligence in New Hampshire is cheaper to kill a man than it is to break his leg in two places when it comes to trying to evaluate what the damage done to a man is in dollars.

Amendment Adopted. Ordered to third reading.

SENATE RESOLUTION RELATIVE TO LT. WILLIAM CALLEY.

Inexpedient to legislate in accordance with the wish of the sponsor as the matter has been already handled by appropriate action by the President in Washington. Sen. Downing for Judiciary.

Sen. DOWNING: Mr. President, the purpose of the resolution was to request that the President personally review the case of Lt. Calley before a final decision was made. The President, has, in fact, stated that he intends to do this and in view of this, the Resolution becomes somewhat unnecessary and the sponsor agreed to this. I urge your support.

Sen. MORRISSETTE: I did agree to go along with the withdrawal of this resolution. I am satisfied that the President will take this action. I would like to take this opportunity to express why I submitted this Resolution. A similar Resolution was offered in the House by one of our colleagues who is now

in a wheelchair who sacrificed half his body for all of us and I felt that he most likely felt as I did. Surely this man knows what it is to fight a war under that type of condition.

One of the reasons why I thought this case should be reviewed was that I felt our forefathers taught us that war was a case of self-defense and we were to fight it altogether. In this case, I felt that we did not fight it altogether. I don't feel that the American people set aside their luxuries or their cars or anything else to join in with these people. I felt that to have given this 21 year old man the responsibility of leading other men, that the military is responsible also. This young man, seeing his friends killed around him every day and not being able to recognize the difference between the enemy that he was put under extreme pressure. I felt that we had been neglectful in segregating population and we should have done a better job in that area.

The President has promised to unite our people and I have faith that he will do it. I have faith that he will judge the complete issue rather than just judge one man. I want to thank you very much for hearing this Resolution.

Resolution adopted.

SB 91

naming a certain mountain in the Town of Odell, Muise Mountain. Ought to pass. Sen. Porter for Resources and Environmental Control.

Sen. PORTER: Mr. President, Muise Mountain is a 3,010 foot mountain in the Town of Odell in northern New Hampshire. Sen. Poulsen introduced this measure to name this mountain Muise Mountain after a conservation officer. For those of you who care to look at it in more detail, there is a chart here illustrating this position; roughly 71 degrees 20 minutes east and 44 degrees, 45 minutes north. Arthur Muise, the gentleman for whom this mountain is being named, has been a conservation officer since September 1950. He was a graduate of Berlin High School. He and his wife, Pat, have three children. He is a decorated Navy veteran from WW II, son of a long term trapper, guide and conservationist, Henry Muise. Sen. Poulsen entered this on behalf of the citizens of the area who think very highly of this fine officer in the Fish and Game Commission and I urge your support of the bill.

Sen. POULSEN: I rise in support of this motion. I think this is the first time that a natural landmark has been named for anyone in New Hampshire. This competes, in no way, with naming mountains such as the Presidential Range. This mountain is completely separate from any of the major mountains. At the same time, for years it has been a mountain that people refer to as "that mountain." It has no name beyond that. This gives it a name as well as honors Warden Muise who is apparently very well thought of in that country although he came from District 1, he apparently has done well in the Groveton area.

Sen. KOROMILAS: Sen. Porter, do you really believe that mountains and places, buildings and what have you should be named after living people?

Sen. PORTER: I see no harm in it, Senator.

Sen. LAMONTAGNE: I would like to be recorded as in favor of this bill. I suport it 100 percent.

Adopted. Ordered to third reading.

HB 265

prohibiting the use of motor boats on Mirror Lake in Woodstock, Ought to pass. Sen. Porter for Resources and Environmental Control.

Sen. PORTER: HB 265 merely restricts motor boats from Mirror Lake in the Town of Woodstock. Mirror Lake is a 37.1 acre lake. The residents have talked to the selectmen and the selectmen have requested that Rep. Higgins, with the bill, eliminate motor boats on the lake. The Committee urges your support of the bill.

Adopted. Ordered to third reading.

HB 314

providing for investigation of a lake management structure on Silver Lake. Ought to pass. Sen. Foley for Resources and Environmental Control.

Sen. FOLEY: Silver Lake has been experiencing many difficulties. It needs a complete investigation of the lake management structure to see if some help can be received in regard to the use and enjoyment of Silver Lake.

This bill is permissive legislation which hopefully will

result in obtaining Federal funds or funds from any other source to make a study. There are no funds attached to this bill and the study is to be made by the Water Resources Board.

This was a bill sponsored by many representatives in the area who are concerned with the future of Silver Lake and I urge its passage.

Sen. JACOBSON: Mr. President, I would like to speak in support of the Committee Report in order to say that as those senators who were here last year remember, there was an effort to fund this lake management project because of the fact that the river to the lake jumped so much during certain seasons of the year and the money was not ultimately obtainable. There was an effort to gain federal funds for the project and that effort is continuing.

Adopted. Ordered to third reading.

HB 429

prohibiting the renaming of certain natural and man-made formations in the state. Ought to pass. Sen. Porter for Resources and Environmental Control.

Sen. PORTER: Mr. President, HB 429 was introduced by Rep. Gordon whereby he requests that certain formations will require legislative approval before being renamed. His main objective had been to the renaming of Bear Brook. The bill had no opposition during the hearing and the Committee urges your support.

Adopted. Ordered to third reading.

SPECIAL ORDER OF BUSINESS AT 1:01

HB 654

relative to the associate degree programs of Keene and Plymouth state colleges. (Requested by Sen. Bradshaw)

Sen. TUFTS: HB 654 is relative to the gradual enlargement of the teachers' colleges. The trend has been, and we have decided, that the teachers' colleges should offer a more liberal arts type education and not strictly limited to the functions of instruction. This is a step which is being taken at this time. It is proposed that the two colleges at Keene and Plymouth may allow the reception of a two-year program and to award the degree of associate in arts and associate in science to those who successfully complete such programs.

All the people who appeared at the hearings were in favor of the measure.

Adopted. Ordered to third reading.

SPECIAL ORDER OF BUSINESS AT 1:02

HB 578

to amend the New Hampshire higher educational and health facilities law. (Requested by Sen. Bradshaw)

AMENDMENT

Amend the bill by striking out sections 9, 10 and 11 and inserting in place thereof the following:

9 Amend RSA 195-D:9, III (supp) as inserted by 1969, 318:1 by striking out said paragraph and inserting in place thereof the following: III. The revenue bonds and notes of every issue shall be payable solely out of revenue of the corporation, subject only to any agreements with the holders of particular revenue bonds or notes pledging any particular revenues. Notwithstanding that revenue bonds and notes may be payable from a special fund, if they are otherwise of such form and character as to be negotiable instruments under the terms of the Uniform Commercial Code of the state, the revenue bonds and notes shall be and are hereby made negotiable instruments within the meaning of and for all purposes of the Uniform Commercial Code, subject only to the provisions of the revenue bonds and notes for registration.

10 Amend RSA 195-D:15 (supp) as inserted by 1969, 318:1 by striking out said section and inserting in place thereof the following: 195-D:15 Exemption from Taxation. The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of the state, for the increase of their commerce, welfare and prosperity, and for the improvement of their health and living conditions, and will constitute the performance of an essential governmental function, and neither the corporation nor its agent shall or may be required to pay any taxes or assessments upon or in respect of a project or any property acquired or used by the corporation or its agent or under the jurisdiction, control, possession or supervision of the same or upon the activities of the corporation or its agent in the operation or maintenance of the project under the provisions of

this chapter, or upon income or other revenues received therefrom, and any bonds, notes and other obligations issued under the provisions of this chapter, their transfer and the income therefrom, including any profit made on the sale thereof, as well as the income and property of the corporation, are at all times exempt from taxation of every kind by the state and by the municipalities and all other political subdivisions of the state.

11 Amend RSA 195-D:18 (supp) as inserted by 1969, 318:1 by striking out said section and inserting in place thereof the following:

195-D:18 Annual Report and Audit. Within four months after the close of each fiscal year of the corporation, it shall make a report to the governor and council of its activities for such preceding fiscal year and such report shall set forth a complete operating and financial statement covering the corporation's operations and during the preceding fiscal year including a complete and detached report setting forth:

- I. Its operations and accomplishments;
- II. Its receipts and expenditures during such fiscal year in accordance with the categories or classifications established by the corporation for its operating and capital outlay purposes;
- III. Its assets and liabilities at the end of its fiscal year; and
- IV. A schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year. The corporation shall cause an audit of its books to be made at least once each fiscal year by certified public accountants and the cost thereof shall be paid by the corporation from funds available to it pursuant to this chapter.

Amend RSA 195-D:21, I as inserted by section 12 of the bill by striking out the introductory paragraph and inserting in place thereof the following:

I. Notwithstanding any other provision of this chapter, the corporation is not empowered to undertake any project authorized by this chapter unless, prior to the issuance of any bonds hereunder, the Governor and his Council, or their designee, have found after a hearing thereon that:

Amend the bill by striking out section 13 and inserting in place thereof the following:

13 Amend RSA 195-D:22 (supp) as inserted by 1969, 318:1 by striking out said section and inserting in place thereof the following: 195-D:22 Agreement of the State. The state does hereby pledge to and agree with the holders of any bonds, notes and other obligations issued under this chapter, and with those parties who may enter into contracts with the corporation pursuant to the provisions of this chapter, that the state will not limit, alter, restrict, or impair the rights hereby vested in the corporation and the participating institutions for post-secondary or higher education and the participating hospitals to acquire, construct, reconstruct, maintain and operate any project as defined in this chapter or to establish, revise, charge and collect rates, rents, fees and other charges as may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation thereof and to fulfill the terms of any agreements made with the holders of bonds, notes or other obligations authorized and issued by this chapter, and with the parties who may enter into contracts with the corporation pursuant to the provisions of this chapter, or in any way impair the rights or remedies of the holders of such bonds, notes or other obligations or such parties until the bonds, notes and such other obligations, together with interest thereon, with interest on any unpaid installment of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged and such contracts are fully performed on the part of the corporation. However, nothing in this chapter precludes such limitation or alteration if and when adequate provision is made by law for the protection of the holders of such bonds, notes or other obligations of the corporation or those entering into such contracts with the corporation. The corporation is authorized to include this pledge and undertaking for the state in such bonds, notes or other obligations or contracts.

Further amend the bill by striking out section 15 and inserting in place thereof the following:

15 Effective Date. This act shall take effect upon its passage.

Sen. TUFTS: HB 578 is as complicated as the other one was simple and I hope that I receive the same number of ques-

tions when I finish. This bill was heard by the Joint Committees; it was a rather lengthy hearing. Both Sen. English and I were there. Numerous erudite people were involved, principally in the field of stocks and bonds and the selling and the guaranteeing of such financial matters.

The amendment removes paragraph 11 of the original bill which refers to bonds eligible for investment. This was a slightly controversial aspect of the hearing and the experts who were there disagreed with one another. The House has removed the bond portion of this bill.

The effect of the bill is to correct, to update, to validate and to make clearer the laws in regard to allowing the educational facilities to build buildings at their educational facilities and hospitals to more adequately meet the requirements of having their financial situation guaranteed.

This is just an updating. I will not use the word house-keeping but it is an updating and it is a modification that is being recommended to the Legislature from the experience of the institutions in New Hampshire making available this state authorization in regard to the building of dormitories and the building of health facilities in the State of New Hampshire.

All the people who appeared favored the bill, in general, with the exception of that paragraph which the House removed.
Amendments adopted. Ordered to third reading.

SPECIAL ORDER OF BUSINESS AT 1:03

SB 113

to increase the penalties for reckless driving and while intoxicated. (Requested by Sen. Nixon)

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

to increase the penalties for driving while intoxicated or under the influence of drugs.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Penalties. Amend RSA 262-A:62 (supp) as amended by 1955, 282:1 1959, 94:1, 1963, 330:1 and 1969, 119:1 by striking out the same and inserting in place thereof the following: 262-A:62 Intoxication or Under Influence of Drugs. Any person who shall be convicted of operating or attempting to operate a motor vehicle upon any way while under the influence of intoxicating liquor or any narcotic, hallucinogenic or habit-producing drug, shall be imprisoned for not less than ten days, which may be intermittent or weekend days, and for not more than six months or shall be fined not more than five hundred dollars, or both: his license shall be revoked for a period of sixty days and at the discretion of the court for a period not to exceed two years. Upon a second conviction he shall be imprisoned for not less than thirty days, which may be intermittent or weekends days, nor more than six months, and fined not less than one hundred nor more than one thousand dollars; his license shall be revoked and he shall be ineligible for a license for the next three calendar years, provided, however, that any prior conviction, upon which a second offense complaint is founded, must have occurred within seven years preceding the date of said second offense.

2 Legislative Study Committee. There is hereby established a legislative committee of seven members to study the laws of the state pertaining to motor vehicles and their operation. Said committee shall be composed of three senators, one appointed by the President of the Senate, one by the Chairman of the Senate Judiciary Committee, and one by the Chairman of the Senate Transportation Committee, and four representatives appointed by the Speaker of the House. They shall make a careful study of the present laws relating to motor vehicles and their operation, and of the need or advisability of the revision of such laws or the enactment of further laws relating to said subject. The committee shall have full power and authority to require from the several departments, agencies and officials of the state and of the political subdivisions of the state, such information and assistance as it may deem necessary for the purposes hereof. Members shall serve without compensation for their services on the committee. The committee shall report its findings and recommendations, together with drafts of any proposed legislation necessary to carry out such recommendations, at the next regular session of the legislature, not later than January 15, 1973.

3 Effective Date. This act shall take effect sixty days after its passage.

Sen. JACOBSON: Mr. President, SB 113, as amended, represents a composite bill which includes SB 19 and SJR 8. This bill, as in the case of other bills which have passed this body, is directed towards the further stabilization of the problems of traffic, particularly the potential for accident in the areas of driving while intoxicated either by means of liquor or drug use.

What the amendment and the bill does is to add the concept of a jail sentence for first conviction of 10 days at least and not more than six months. It then adds a new concept which will allow the jail sentence to be served on intermittent days such as on weekends so that the individual convicted would have the opportunity to continue his employment and to take care of his family responsibilities.

The second thing it does is that upon second conviction, it makes mandatory, a jail sentence of 30 days and not more than six months and also makes a fine of not less than \$100 nor more than \$1000 mandatory. The second part of the bill asks for a legislative study committee to study the operation of motor vehicles and in particular, the relationship to the problems of traffic and accidents. So that there will be the involvement of the legislative personnel in a more intensive form in studying the motor vehicle operations. As you all know, here are countless studies that are made by various groups, but very often, these studies are made and there is no bridge between the studies that are made and purposeful legislative action. That is the intention of the second part of this bill.

Sen. SPANOS: Mr. President, I move that SB 113 be re-committed to the Judiciary Committee. As Sen. Jacobson indicated, this is a composite of several bills. To some degree I think the Judiciary Committee has gone beyond the individual bills themselves. There are, in each one of these individual bills meritorious aspects. SJR 8, which creates the legislative study committee, is one that I can subscribe to wholeheartedly. SB 113, which changed the fine from \$500 to \$1,000, is also a bill that I could subscribe to. The bill introduced by Sen. Snell, which imposes a 7-day jail sentence after the second conviction, I can also subscribe to. I do not want to oppose this bill

because I would be then attacking some of the sections which I feel have some merit.

The one thing that I cannot quite understand is why the Committee went so far as to impose a jail sentence for not less than 10 days for the first offense to be served on weekends or *terminately*. I think the Committee went beyond the bills that were before them. I think that 10 days is a very harsh penalty to impose on the first offense. As a matter of fact, I can go through the *Revised Statutes Annotated* and show you many more serious offenses that do not impose a jail sentence of that nature.

Some may argue that the 10-day sentence might be suspended. I am not too sure and I would like to know that as a fact. Also, I can live with the imposition of a 7-day or 10-day sentence after the second conviction but I find it very difficult to subscribe to the philosophy of imposing the sentence as a consequence of the first violation.

I have supported the breathalyzer test, I have supported the reduction of the alcoholic content in the blood system from .15 to .10 but on this, I cannot and I would hope that my motion to recommit would pass so that the Committee might take into consideration some of the sentiments I am expressing and change this very harsh penalty.

Sen. LEONARD: Mr. President, very rarely do I disagree with the wisdom of the Judiciary Committee but on this particular bill, I agree with Sen. Spanos. I think that this is a very harsh punishment for the first offense. As I pointed out on the floor before, a lot of people are found guilty of drunken driving on the first offense without a hearing. They plead guilty because they knew they had something to drink and they were arrested and that was good enough for them. They did not realize that they had a right to a trial by a jury and court. Some of these people cannot afford a lawyer and for various reasons they do not defend themselves. I think that it deserves reconsideration. I did not file a minority report to the Committee but I did not agree with going this far.

Sen. NIXON: Mr. President, I rise in opposition to the motion to recommit and in favor of the Committee Report, "ought to pass with amendment." I think I can fairly state

that SB 113, as it appears before you today, represents the composite of some tough discussion and tough thinking among the membership of the Committee, and represents an effort to really do something about the problem of the driver under the influence of alcohol on our state highways. I think the Committee agreed that merely lengthening the time of license revocation for the first or second offense or increasing the fine would not prove to be a deterrent to drinking and then driving, and it would probably, as was indicated by correspondence from some county attorneys, complicate the litigation procedure in that appeals would be more numerous — appeals from the district court level to the superior court.

I think the Committee and this body should know further some of the current statistics on the problem of drinking and driving across the country and here in New Hampshire. The Pennsylvania Action Committee for Highway Safety, chaired by Dr. Herbert S. Denenburg, the Insurance Commissioner of Pennsylvania, recently conducted a study on the subject in that state published in the April, 1971 issue of the *Insurance Law Journal*. The statistics that that committee's research came up with were as follows: drunken drivers kill somebody every 18 minutes in this country. There were 800,000 crashes last year due to drunken driving. 44 percent of the innocent dead drivers were killed by drinking drivers. 18 million alcoholics exist as driving problems in the United States of America. One out of every 50 drivers coming your way on the highways is legally drunk. One study showed that the odds are more than 8 to 1 that the driver fatally injured in a single vehicle crash between 9 p.m. and Midnight had been drinking. Another study showed that the majority of the drivers who had been drinking before a fatal crash were found, on investigation, to be alcoholics. Another study showed that 2/3 of drivers whose licenses are suspended keep on driving even without a license. A study of 810 households found that 42 percent generally drive after drinking and another 20 percent did so occasionally.

Last year, according to the most reliable and up-to-date statistics, there were between 30-40,000 deaths on the highways due to drinking. In New Hampshire alone, there have been 41 deaths this year on our highways. There have been 10,345 accidents on New Hampshire highways in 1971. During 1970,

there were 56 deaths in which the deceased was found to have imbibed alcohol to the extent of .05 percent in his bloodstream or less and 58 deaths where the imbibing reached the point where his blood alcohol content was greater than .05. There were 1,930 license revocations for DWI. There were 212 licenses suspended for driving after drinking and it is estimated that there are 16,100 alcoholics in this state at this time. Total fatalities in 1970 were 196 and total accidents were in the amount of 27,983.

These are just cold, hard statistics. As a lawyer, I don't like the idea of anyone going to jail for a mandatory minimum 10-day sentence on a first conviction of DWI. But, my dislike for that idea, in this particular case, is overcome by what I believe to be the deterrent effect of people generally knowing that they face a 10-day jail sentence if they are convicted of DWI for the first time. This has been found, and I believe with due respect to where it goes in the Scandinavian countries particularly, to be the *only* effective deterrent. I believe the City of Chicago has a 7-day mandatory minimum jail sentence on a first conviction which started in January of 1971 and I believe I recall statistics establishing that there has been a substantial decrease in alcohol related accident deaths in that city which the authorities attribute to the deterrent effect of the drivers knowing that if convicted for the first time, they spend some time in the cooler.

So, it is with reservation on my part, as a lawyer and as an individual who has been involved, you might say, in the DWI process for twelve years now, that I would recommend to you the Committee Report as it comes before you today.

Sen. SNELL: I am opposed to the motion that was offered by Sen. Spanos to recommit SB 113 to the Committee and I would like to restate some facts that Sen. Nixon pointed out just recently and go into them in a little more detail.

Last year, under the influence, individuals who were classified under the influence were responsible for over 25,000 deaths on our highways. The FBI Report indicated that these individuals under the influence, in the past ten years, the percentage factor, if you want to use statistics, is up 75 percent over the previous ten years. Sen. Nixon mentioned the Scandinavian countries; in Norway, the first offense is an automatic

3 week jail sentence and a one year suspension of license. The second offense results in the driving privilege lost for life! In Sweden, they receive a 1 month jail sentence. In Finland, a 3 week jail sentence at hard labor.

The quote that I pulled out of a recent article concerning highway deaths; "fear of punishment will deter", and I put in back of this "but only if the punishment is imposed." Loopholes in our laws and the leniency of our judges still permits an individual to drive after he has been apprehended for DWI.

I want to commend the Committee for working on these three pieces of legislation and coming in today with a piece of legislation that I feel is in the best interest of the State of New Hampshire and I thoroughly support this bill. Let me quote from an editorial from the *Manchester Union Leader*. (I don't usually quote too many articles from the *Leader*) " This bill should have the active support of the public because this bill is aimed at making our highways safer for you driving back and forth to work, for your wife coming home from the market and for your teen-age youngster out with the family car on a date with his best girl."

Thank you, Mr. President.

Sen. SPANOS: Mr. President, I am going to borrow from Sen. Nixon's question some time ago involved with the breathalyzer and ask Sen. Snell this: Does Sweden, Finland and Norway have state operated liquor stores? — owned by the state, operated and promoted by the state and income for the state.

Sen. SNELL: I do not know the answer.

Sen. SPANOS: Your bill did not provide such harsh penalties when you introduced it — is that a fact?

Sen. SNELL: Yes, sir.

Sen. SPANOS: As a matter of fact, there wasn't any penalty or fine or any jail sentence for the first offense?

Sen. SNELL: That is correct.

Sen. LEONARD: Sen. Snell, you quoted from the *Manchester Union Leader*, which you said was a rare occasion. They were congratulating the Legislature on a bill. Could you tell me what bill they were referring to?

Sen. SNELL: They were congratulating the bills that were introduced by three individuals, one being myself.

Sen. LEONARD: Which bills were they?

Sen. SNELL: SB 19, SB 113 and HB which had to do with the sentence factor.

Sen. LEONARD: How many of those bills had requirement of a mandatory jail sentence for the first offense?

Sen. SNELL: None of them.

Sen. S. SMITH: Mr. President, I rise in support of Sen. Spanos' motion. I think it can be said that I have been concerned with highway problems over the years and particularly in this Legislature. The reason that I arise is that the comment which was made by a senator relative to the reduction in alcohol oriented accidents in Chicago and I happen to be familiar with one of those accidents which occurred since the first of the year in which the person was extremely intoxicated, demolished his car and did some physical damage to himself. He was taken to a hospital. The police charged the individual, because he hit a bridge, with damage to town property. I am concerned about the problems of alcohol on the highway. I am concerned about the drunk driver. I know of Sweden's and Norway's strict laws and maybe they apply. I would hope that the Senate would go along with recommitment of this bill so that further consideration might be given.

Sen. SNELL: Sen. Smith, you indicated the case in Chicago. You also indicated, Sen. Smith, that you were very concerned about the problem on our highways. Do you feel that this bill will not, in any way, hopefully save the life of 3, 4 or 5 individuals in the next year?

Sen. S. SMITH: I would hope that it would, but I am not sure of it at this time.

Sen. JACOBSON: Mr. President, I rise in opposition to the pending motion from several perspectives. One, as Sen. Nixon has indicated, there is tremendous loss of life on the highways and I would only want to underscore this matter by saying that the loss of life on the highways as the result of intoxication is greater than the loss of life by murder or suicide or both of them combined. This seems to me to be one important

step in the direction of saving even one life. We heard earlier testimony regarding the amount of money that can be awarded for a person killed in some sort of accident in which the value of that life is rather expensive. It did not take into account all of the social benefits and relationships that that individual has.

I would also ask you to bear in mind that the greater percentage of these lives that are snuffed out are the lives of young people who have great potential for the future in terms of both social and economic benefit.

Furthermore, I would like to say that it is a well-established fact that fines do not deter. I cannot say that this will deter, but the evidence seems to indicate that this has the greatest potential from deterring people from taking the wheel after they have been drinking.

Finally, I would like to say that Sweden has an alcoholic beverage control commission which is called the "System Bola-get" and one time, they even had a ration system so you only got just so much per month. They released that ration and at the same time, increased the penalties for DWI.

Sen. DOWNING: Mr. President, I rise in opposition to the motion to recommit and in support of the Committee Report. I have heard several pieces of legislation that have come through here relative to drunken driving in reference to the fact that we have state liquor stores so why should we be penalizing people who drink. There isn't any limit put on a person's amount of alcoholic consumption but we do say don't drive the car when you are doing it. I don't think it is an unfair limitation at all. Certainly, I recognize that the penalty is harsh when you compare it with penalties for some other things and harsh when you compare it to existing penalties.

But it is certainly not harsh when you compare it to the statistics read by Sen. Nixon. The damage to the life and property that is done is a lot harsher than the penalties that we are considering in this bill. I can't add anything more than what Sen. Nixon has said or Sen. Snell. I support the Committee Report that was originally proposed.

Sen. LEONARD: Sen. Downing, we recently had legislation that tightened up the drunken driving statutes. Is that not true?

Sen. DOWNING: Yes.

Sen. LEONARD: Was that a step in the right direction in your opinion?

Sen. DOWNING: Yes.

Sen. LEONARD: This step that you are recommending now is a giant step isn't it?

Sen. DOWNING: I don't think it is as large a step as some people would like to see, Senator, I think it is a compromise step.

Sen. POULSEN: I rise in support of Sen. Spanos' motion. While I am as concerned as anyone over the drunk driver, I think this is too harsh and too sudden. I think, for one thing, that the towns, as such, would not be able to handle an influx of people into their jails, particularly over a weekend. I think it would be physically impossible to contain them. For that reason, I am in favor of Sen. Spanos' motion that this be sent back to Committee for further study and revision.

Sen. SNELL: Sen. Poulsen, you mentioned that the penalty is too severe. What type of a penalty would you recommend in this case of loss of life. Let's say as an individual going home tonight, I am considered intoxicated and I run into you and you get killed. What type of punishment should I receive in this case? Of course it would be different than just receiving this minor fine, but are you concerned about your son or daughter being killed on the highway by someone who might be DWI?

Sen. POULSEN: That is two questions, Senator Snell. The first one I have no answer for. I am not in a position to set judgment and the second one, I would be very offended if you killed any of my family. Thank you.

Sen. NIXON: Sen. Poulsen, were you aware that no jail sentence is imposed until after a trial in the district court having jurisdiction. In that case, the jail involved would be the county jail and not the "town lock-up" so-called?

Sen. POULSEN: I understood this came out of the district court. I misunderstood that portion of it. If this is a county thing, there would be more room but still I think it is insufficient.

Sen. DOWNING: Sen. Poulsen, do you really feel that there are, on any given day, so many drunken drivers on our roads that they would overflow our jails if we were able to catch them all?

Sen. POULSEN: I have no statistics to back this up, but I see in the paper a list of court convictions and there are many drunk driver charges with \$100 and \$200 fines. If those people were all put in the jails of small towns which contain two and three and four cells, I can foresee a population expansion.

Sen. DOWNING: How often do you see such publications?

Sen. POULSEN: Weekly.

Sen. DOWNING: 200 drunk convictions?

Sen. POULSEN: I see them in the terms of the smaller towns, ordinarily, the ones I read, the numbers aren't that large.

Sen. DOWNING: Distinguishing the difference between a person who is drinking and a person who is drunk, don't you feel that the fact that we would have anywheres near this number of people on the roads, drunken driving, and assuming by your opinion that there are many that are not caught today, that it is urgent that we get them all off the road or discourage them from going on the road in the first place?

Sen. POULSEN: I entirely agree with your conclusion but I don't agree with your method.

Sen. SNELL: Sen. Poulsen, one last question. Do you feel that an individual might consider this piece of legislation so severe in the best interest of the citizens of the State of New Hampshire that he might improve his ability to drive home after being considered intoxicated?

Sen. POULSEN: One could hope that.

Sen. PORTER: Sen. Poulsen, you said you did not agree with the solution. Do you have a proposed solution?

Sen. POULSEN: No, sir. I think the Committee is composed of people who are much more versed in this subject

matter, particularly people who are in court testifying. I think those people are better qualified to set the penalty for the crime.

Sen. PORTER: Then the Committee arrived at a meaningful proposed solution to the problem?

Sen. POULSEN: Apparently, and yet we find disagreement and I see no harm in that. Having had disagreement registered, I see no harm in reconsidering.

Sen. KOROMILAS: Mr. President, I rise in opposition to the pending motion. I think some questions have been raised with respect to the right of the Judiciary to suspend the fine imposed by the Legislature if this were to become law. Two or three years ago, we passed a bill which became law requiring a mandatory sentence of two days for situations where a person was driving after his license was revoked. At that time, the Judiciary took the position that they were an equal and coordinate branch of the government. In some instances, they did suspend the mandatory jail sentence.

I think the record should show that the legislative body of our government does not intend to take away any rights that the Judiciary has to suspend, if they so see fit. I think this should show in the record that it's up to the Judiciary, in this particular sense, whether to suspend or not to suspend. They have taken the position in the past that they are a coordinate and equal branch.

I think that answers the question that Sen. Spanos raised earlier.

I would also like to take the argument with respect to the Liquor Commission — that the Liquor Commission, somehow, is contributing to drunken driving. I just don't agree with that type of thinking and I don't think it is even logical. There are many states in our Union that do not have a Liquor Commission. They have the same problems of DWI as we do. If the attempt is to kind of tar and feather the source of revenue that the state derives from selling liquor, I will have no part of it. I don't think the Liquor Commission is at all involved in accidents in that sense. I think we should all know the dangers involved when a person drinks and drives. I think it is a simple proposition that when I drive, I shouldn't have been drinking. If a person goes to jail 12 days and it does deter him, I think we

have got a plus. We have tried every other attempt, devices and methods. We have suspended licenses for 60 days or more but that seems not to have cut down the problem. I feel the Legislature, in this occasion, is using a new method to do something because the other method failed.

For these reasons, I oppose the pending motion.

Sen. LEONARD: Sen. Koromilas, as a lawyer, you have had experience in courts, especially with the law passed four years ago making it mandatory for a two-day jail sentence if a person drove after his license was revoked. Is that correct?

Sen. KOROMILAS: Yes, that is correct.

Sen. LEONARD: From your experience, did not that cause a lot of various opinions among the Judiciary — some suspended and some didn't?

Sen. KOROMILAS: That is correct.

Sen. LEONARD: And the outcome was that this law was repealed because it wasn't workable?

Sen. KOROMILAS: I don't know what the reasons were but I wouldn't say that it was because it was not workable.

Sen. LEONARD: If it was worded so that it was discretionary for the court, in your opinion would it have been repealed — the two-day mandatory jail sentence?

Sen. KOROMILAS: This I don't know the answer to.

Sen. MORRISSETTE: I rise in favor of Sen. Spanos' motion. I favor this bill very highly. I have been an advocate of strong punishment as a means of cutting it down. However, I feel we should have a bill that has some chance of passage in the House and therefore not jeopardize the complete bill. This bill goes all the way except for the death penalty. I think that we should give a little bit more thought. What have we got to lose? What can you do to a man after you put him in jail other than to shoot him? I think that people need a chance and why should we object to giving it more thought?

Many people do not keep up with current laws and do not read the paper. As a result, they might be arrested for DWI and being unaware of the new penalties, find themselves in quite a situation that had they known otherwise, they might have

avoided. Many people celebrate at weddings or other festive occasions. This punishment, as a *required* punishment, needs a little bit more thought.

Sen. DOWNING: Sen. Morrissette, somehow or other, I felt that you assume that anyone coming out of a wedding was drunk.

Sen. MORRISSETTE: No, but according to the gentleman that I was speaking to, when you are on your third martini, you've had it so I feel that there is that possibility.

Sen. DOWNING: You understand that the penalty would apply only to the individual who is driving the car, not the people riding in the car?

Sen. MORRISSETTE: Yes, but I also feel that the court should have the right to give a man less than the maximum sentence.

Sen. DOWNING: Did you just hear the testimony of Sen. Koromilas that the court does, in fact, have the right to suspend?

Sen. MORRISSETTE: I didn't hear that. I heard testimony from Sen. Spanos which placed some doubt in my mind. This is why I, personally, would like to dig right into it.

Sen. DOWNING: The answer relative to the authority of the court to suspend sentence that Sen. Koromilas gave after the question by Sen. Spanos— Don't you recognize this as a satisfactory answer?

Sen. MORRISSETTE: May I ask you a question? Does Sen. Spanos and Sen. Leonard, both attorneys, agree with that statement?

Sen. DOWNING: I think that is a question for them.

Sen. MORRISSETTE: If they do, I will change my opinion.

Sen. JACOBSON: Sen. Morrissette, if I heard you correctly, I think you said that the only alternative was the jail sentence or being shot — is that correct?

Sen. MORRISSETTE: No. I think that the next step would be to say that. It would be the next elevation of penalty that you could offer.

Sen. JACOBSON: How many people in the United States have been executed for any offense in the last two years, including murder?

Sen. MORRISSETTE: None that I know of.

Sen. TOWNSEND: Mr. President, I rise in opposition to the motion before us at this time. I have heard a lot about the strictness of the proposal in this bill, as it is before us now. I can only say that when someone has lost a member of their family as I have because of drunken driving, nothing is too strict. I only hope to God that the ladies and gentlemen present here don't have to come to this realization the same way I have.

Sen. MCCARTHY: Mr. President, I rise in favor of the motion to recommit SB 113 for further study. I think that this afternoon there has been considerable doubt raised in many people's minds and I think Sen. Spanos' concern about the first time offenders is a very legitimate one. I think I have seen statistics, but I haven't got them available now, that many of the fatalities on the highways today are from repeat offenders. We do have people driving after having been convicted two or three times in the court system the way it is.

I am concerned, primarily, about the first time offender who might be coming from a wedding or who might be coming from a funeral, for that matter. I don't think that the penalty of a week or 10 days in jail really would serve as a deterrent to the first time offender who may have never have tasted alcohol or drugs before because I don't think you can relate to that. I think someone who has been involved can relate and if you want to stiffen up the sentences for repeat offenders, I would be all in favor of it.

In any event, I do think there is enough doubt in my mind that I would be in favor of recommitting it for further study by the Committee.

Division vote: 10 Yeas, 10 Nays Motion lost.

Sen. LEONARD: Sen. Nixon, you are familiar with the language of the amendment. Is that true?

Sen. NIXON: I think I am as familiar as other members of the Committee are.

Sen. LEONARD: In your opinion, under the amendment, is it mandatory for a judge to put someone in jail for 10 days on first offense?

Sen. NIXON: I believe the language of the amendment could be so interpreted and I believe it was the Committee's intention, by a consensus, that it be mandatory. I also believe that RSA Chapter 607, Section 12, providing generally for discretion in the judge to suspend sentences, in misdemeanor cases such as this is, would probably be ruled to apply so that the minimum jail sentence could be suspended if, in the discretion of the judge, he felt, under the circumstances, it would be cruel and unusual punishment. I also would remind you that the mandatory, minimum jail sentence is 10 days in the case of a first conviction and 30 days in the case of a second. In the language of the bill as amended, they are intermittent or weekend days. The idea being there to provide the least amount of burden in terms of the income of the fellow convicted and his family needs as it warranted in the circumstances.

Sen. LEONARD: In your experience as trial lawyer and a good one, how many cases of drunken driving with a mandatory suspension of license and a minimum of 60 days have you seen the court suspend?

Sen. NIXON: I don't think the court has the power to suspend the revocation of license although I will say, in my younger and rasher days, I convinced a court once to do so — to suspend the revocation of license. But, that is the only such occasion I have heard of.

Sen. LEONARD: Under the amendment and the present law that we enacted a few weeks ago making .10 alcoholic content an indication of drunken driving, would you say it was fair for a person to have a reading of .10 to get 10 days in jail and at the same time, a person with a reading of .30, .40 or .50 to get the same 10 days in jail?

Sen. NIXON: That is a difficult question. All I can say is that in many cases, either in terms of the statutory language, minimum, maximum now applicable or the actual sentence imposed, I have felt the sentence was unfair, either in terms of being too lenient or too harsh but this is a matter of judgment in each individual case. I would say to the extent that anyone could reasonably say that a mandatory 10 days is unfair in terms of

being too harsh in a particular case, to that extent, there is an offsetting factor. The deterrent value on the rest of the population knowing, or having in mind that if they are convicted of driving while under the influence of alcohol to the extent of .10 alcoholic content in their blood, a life or two or perhaps twenty, or perhaps a hundred in a year might be saved. In balancing those considerations, I came to the conclusion that maybe we should try to do something such as is provided in this bill — a mandatory 10 day sentence for the first conviction and if it does not work, assuming successful passage in the House, certainly in a Special or regular session not longer than two years from now, our error can be corrected. In the meantime, perhaps a remedy for the first time in our traffic history here in New Hampshire, providing an adequate deterrent to driving while after imbibing too much alcohol will have been placed on the books.

PARLIAMENTARY INQUIRY

Sen. LEONARD: When we took the division vote, I counted 10 that stood up the first count for the motion and 9 for the second. Did the President vote?

The CHAIR would state yes.

Sen. SPANOS: Is it customary for the Chair to vote only in the case of a tie or can he make a tie.

The CHAIR would state that he can make or break a tie.

Sen. JACOBSON: Sen. Nixon, you being a distinguished trial lawyer, is it not true that a judge may also mitigate, if there are mitigating circumstances, by changing the sentence from driving to endanger to some other smaller type of offense if he does not want to go as far as this?

Sen. NIXON: No, it is not true that a judge can do that, but if the prosecutor does not think that he can prove one offense beyond a reasonable doubt, as a matter of practicality and in the interest of the public he serves, often times he will accept a plea to a lesser charge in order to get a conviction and save the state and county the time and effort and expense of a trial which will probably not result in a conviction.

Sen. MORRISSETTE: Sen. Nixon, can you tell me, as an attorney of other misdemeanors, do they have a required jail sentence?

Sen. NIXON: Offhand, I do not know of any. On the other hand, I also do not know of any other misdemeanors which have created such a social problem in terms of the statistics of accidents and deaths which are casually related to their condition as does DWI situation. So maybe, and this is my opinion, maybe the imposition of the mandatory minimum sentence, a harsher penalty if you will, than in the case of other misdemeanors, is warranted, on a trial basis in this case, where it would not be in the other misdemeanor situations.

Question on adoption of amendment as offered by the Committee.

Amendment adopted.

Sen. LEONARD: Sen. Nixon, in your judgment, do you think it would be a good amendment to your amendment that we just passed that the court would have discretion in sentencing a person to a mandatory jail sentence?

Sen. NIXON: I am not sure, as I think I indicated earlier, that that discretion does not already pertain under RSA 607:12, the right of a court to suspend sentences in particular cases.

Sen. LEONARD: But bearing in mind that, in your opinion that is available, why not simplify the matter and have it in that particular statute that the court is concerned with so that they would know?

Sen. NIXON: Because in my own mind, I am not sure that such an amendment should pertain. That the absolute right or discretion should pertain, at least for a while, say for a two year period. Let's try it the hard way and if it doesn't effect a substantial reduction in alcohol related deaths and accidents on our highways, then let's go back to the old measure or try something else. My own judgment is that it is time that we tried something as severe as SB 113 as amended to see if it works as it apparently has worked in the Scandinavian countries and in Chicago, which the statistics seem to indicate. Then, if it doesn't, let's go back and try something else.

Sen. KOROMILAS: Sen. Jacobson, if this amendment does not pass, what is the original bill as you have proposed it, provide?

Sen. JACOBSON: The amendment has been adopted.

Sen. KOROMILAS: Yes, I know, but what is the original bill?

Sen. JACOBSON: The original bill as I have put it in raised the fine upon conviction to \$1,000 for the first conviction and a based limitation.

Sen. FOLEY: Sen. Leonard, if something is mandatory, how can it be discretionary?

Sen. LEONARD: There is a difference of opinion on that point, but in my opinion, the language of this amendment sets a jail sentence up of 10 days minimum sentence mandatory. The judge has no discretion to change it and everybody will go to jail.

Sen. SPANOS: Mr. President, I move that further consideration of SB 113 be indefinitely postponed. I do so very reluctantly because, as I said earlier, I think there are some other parts of this bill that are very good and I was hoping that the Judiciary Committee and the members thereof would reconsider their actions. But now, after listening to Sen. Nixon and being concerned about what Sen. Leonard said and somewhat concerned about my own question originally of whether or not suspension was possible, I am now more convinced than ever that the matter is too harsh a piece of legislation for us to consider. If there was any chance, and I am not sure anymore that there is after the testimony offered by Sen. Nixon that the concern of the Committee *was* to make it severe, to give it a test, to make it more difficult, I am now convinced that I cannot, in good faith, support this measure because I think it far outweighs all the other merits of the bill, with all due respect to Sen. Jacobson.

I hope that the membership will go along with me on this because I think that a mandatory jail sentence for a person convicted of a first offense for DWI is too harsh a penalty when you do consider that there are hardly any other sections of our statutes which impose mandatory sentences.

Question on indefinite postponement.

Division vote: 9 Yeas, 10 Nays, motion lost.

SB 113 Adopted. Ordered to third reading.

Sen. Spanos moved that the Senate do now adjourn from the Early session and on third reading, all bills be read by title only, resolutions by caption only and that when the Senate adjourns today, it be until Tuesday next at 1 o'clock.

Adopted.

LATE SESSION

Third reading and final passage

SB 113, to increase the penalties for driving while intoxicated or under the influence of drugs.

Sen. Nixon moved reconsideration on SB 113.

Motion lost.

HB 578, to amend the New Hampshire higher educational and health facilities law.

SB 109, legalizing the annual meeting of the Town of Goffstown, March 9, 1971.

SB 111, permitting any town to account on a fiscal year basis, permitting semi-annual tax collection in all towns and providing for an optional town meeting date.

HB 426, clarifying the powers of assistant moderators to administer oaths.

HB 443, increasing the debt limit for school construction in the Town of Bedford.

HB 490, relative to the New Hampshire annual conference of the Methodist Church.

SB 47, relative to salary increases upon certification and eligibility for certification of certain medical personnel.

SB 83, making appropriations for an addition to Snively Arena.

Sen. Foley moved reconsideration on SB 83.

Motion lost.

SB 98, increasing the state guarantee for certain school construction programs.

SB 146, authorizing the prosecution to take depositions of certain witnesses in criminal cases.

HB 203, relative to professional services.

HB 149, relative to the dollar limitation on recovery in wrongful death actions.

SB 91, naming a certain mountain in the Town of Odell, Muise Mountain.

HB 265, prohibiting the use of motor boats on Mirror Lake in Woodstock.

HB 314, providing for investigation of a lake management structure on Silver Lake.

HB 429, prohibiting the renaming of certain natural and man-made formations in the state.

HB 654, relative to the associate degree programs of Keene and Plymouth state colleges.

Adopted.

Sen. Downing moved the Senate adjourn at 3:55 o'clock.

Adopted.

Tuesday

4May71

The Senate met at 1 o'clock.

A quorum was present.

Sen. S. Smith in the Chair.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

ALMIGHTY and ETERNAL GOD, creator of life, sustainer of the universe, who art high and holy, and yet who dwellest within the secret confines of our hearts; we bow before Thee — knowing that only as we acknowledge our dependence upon Thee can we be sustained in the world in which we live. Help us, through our anxiousness, concern, distress, and fear, to seek Thy Presence; knowing that we live in the assurance of Your love and that all things work for good to them that love Thee.

Be patient with us as we learn the lessons of life and the lessons of history. Bless these servants of democracy and all their endeavors which serves the cause of truth and the citizens of our "Granite State." Amen.

Pledge of Allegiance was led by Sen. Gardner.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 193, defining the crime of begetting a woman with child and giving jurisdiction to the district courts. (Morrissette of Dist. 16 — To Judiciary.)

SB 194, to provide for medical treatment of minors without parental consent by licensed physicians. (Jacobson of Dist. 7 — To Public Health, Welfare and State Institutions.)

SB 195, giving the Director of Safety Services and his authorized representatives the power of arrest in the enforcement of laws relative to operation of boats by a person under the influence of liquor or drugs. (Smith of Dist 3 — To Public Works and Transportation.)

SB 196, relative to optional number plate legend. (Jacobson of Dist. 7 — To Public Works and Transportation.)

SB 197, establishing the salary of the pesticides surveillance scientist. (Poulsen of Dist. 2 — To Finance.)

SB 198, establishing a permanent probation office in municipalities with population over fifty thousand persons. (Leonard of Dist. 13 — To Judiciary.)

SJR 20, in favor of Mrs. Ann Morrell. (Lamontagne of Dist. 1 — To Banks, Insurance and Claims.)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 458, prohibiting the use of motorboats on Berry Pond in Moultonborough. (Resources and Environmental Control)

HB 489, relative to the sentence for murder and the proceedings to determine the sentence. (Judiciary)

HB 497, relative to additional votes for supervisory union personnel based on a ratio of student population. (Education)

HB 525, relative to incompatibility of town offices. (Executive Departments, Municipal and County Governments)

HB 529, relative to the destruction and removal of boundary markers. (Public Works and Transportation)

HB 536, relative to the taking of land for state park facilities in the Town of Rye. (Resources and Environmental Control)

HB 549, relative to revisions and supplements to the law enforcement manual and making an appropriation for an additional printing of the manual. (Judiciary)

HB 564, relative to increasing the membership of the advisory commission on health and welfare. (Public Health, Welfare and State Institutions)

HB 582, regulating outdoor advertising on the interstate, federal aid systems, and turnpikes. (Public Works and Transportation)

HB 586, making it unlawful to operate a motor vehicle while in possession of a controlled drug. (Public Works and Transportation)

HB 591, relative to organized time trials for motor vehicles on certain public highways. (Public Works and Transportation)

HB 661, revising the application of the implied consent law. (Judiciary)

HB 709, relative to the use of credit union funds. (Banks, Insurance and Claims)

HB 719, relative to directors of savings and commercial banks. (Banks, Insurance and Claims)

HB 744, increasing the amount of money payable to certain town officers' associations. (Executive Departments, Municipal and County Governments)

HB 745, providing for the removal of a town clerk. (Executive Departments, Municipal and County Governments.)

HCR 15, memorializing Congress to provide two hundred dollar monthly minimum social security benefits. (Ways and Means and Administrative Affairs.)

HOUSE CONCURRENCE ON SENATE AMENDMENT TO

HB 260, requiring insurance companies to pay the cost of physical examinations where the insurer requires them before extending liability coverage.

HOUSE CONCURRENCE

SB 125, to repeal certain statutes relative to the width of rims of wagon wheels and to chaining wheels on hills.

HOUSE CONCURRENCE ON SENATE AMENDMENT TO

HJR 8, relative to retirement credit for Herbert R. Hagstrom.

HOUSE ADOPTION TO ENROLLED BILLS AMENDMENT

HB 47, relative to traffic surveys and truck weight surveys.

ENROLLED BILLS REPORT

HB 104, to provide life insurance for national guardsmen while on active state duty.

SB 38, authorizing town by-laws on snow removal.

HJR 21, in favor of William J. Wilson of Canterbury.

HJR 26, to reimburse Reginald Pelkey for damage done to his automobile and making an appropriation therefor.

Sen. Ferdinando
For The Committee.

REQUESTS FOR COMMITTEES OF CONFERENCE

On motion from Sen. Bradshaw, the Senate voted to accede to House request for a Committee of Conference on:

HB 203, relative to professional services.

The Speaker appointed as members of said Committee on the part of the House, Reps. Zachos, Palmer and Alukonis.

The President appointed as conferees on the part of the Senate, Sens. Nixon and Downing.

On motion from Sen. Bradshaw, the Senate voted to accede to House request for a Committee of Conference on:

HB 149, relative to the dollar limitation on recovery in wrongful death actions.

The Speaker appointed as members of said Committee on the part of the House, Reps. Andrews, Nighswander, and Brummer.

The President appointed as conferees on the part of the Senate, Sens. Nixon and Leonard.

On motion from Sen. Tufts, the Senate voted to accede to House request for a Committee of Conference on:

HB 578, to amend the New Hampshire higher educational and health facilities law.

The Speaker appointed as members of said Committee on the part of the House, Reps. Bowles, Hughes and Lemieux.

The President appointed as conferees on the part of the Senate, Sens. Tufts and Downing.

COMMITTEE REPORTS

HB 214

making supplemental appropriations for the expenses of the Department of Health and Welfare, industrial school, and the state prison for the fiscal year ending June 30, 1971. Ought to pass. Sen. R. Smith for Finance.

Sen. R. SMITH: HB 214 is a supplemental appropriation in the amount of \$467,554. It breaks down as follows:

For the State Prison — \$32,471.

For the Industrial School — \$19,000.

For Health and Welfare — \$416,083, \$296,000 of which is for the categorical programs. \$106,909 of which is for the state hospital and \$12,662 for the Laconia School.

The bill was necessary in the case of the institutions, New Hampshire Hospital, Laconia School, Industrial School and the prison primarily in three areas: food, fuel and medical expenses. The cost for fuel has skyrocketed in the last year or so and the institutions have felt this pinch.

\$292,000 for the categorical programs are due primarily because of an increase in programs which could not be foreseen when the money was budgeted two years ago.

The bill, as originally presented to the House, was for \$903,000. It had a thorough shaking down there and we feel it is as tight as it can be now.

Sen. KOROMILAS: What is this categorical type of program?

Sen. R. SMITH: Old-age assistance, families with dependent children and aid to permanently and totally disabled persons.

Adopted. Ordered to third reading.

SB 147

relative to the voluntary retirement of supreme and superior court justices. Ought to pass. Sen. Leonard for Judiciary.

Sen. LEONARD: Mr. President, under the present law, a supreme court or superior court judge must retire at age 70. Ten years ago, the Legislature passed a statute which appoints retired judges as judicial referees to work at three-quarter salary in either the supreme or superior court. This bill gives the judge an option to retire at 65. There was evidence presented at the hearing that some people are not capable at age 65 as they are at age 55 or 60 and it should be the option of the individual judge to decide whether or not he is capable of continuing as a full-time judge. There was no opposition to the bill. This was approved by the Judicial Council and at the hearing at the Senate Judiciary Committee, the retired Chief Justice of the Superior Court, Judge Leahy testified. Attorney Early, a member of the Judicial Council, testified and Ray Laraba, Secretary of the Council testified all in favor of the bill.

Adopted Ordered to third reading.

HB 516

relative to uniformed police officers in attendance at public dances, carnivals and circuses. Ought to pass. Sen. Lamontagne for Judiciary.

Sen. LAMONTAGNE: Mr. President and members of the Senate, this is a very minor change because the attendance by uniformed police officers is now in the law and the only change

that it makes is in the penalty which is being changed from \$10 to \$25. This is the only change.

Adopted. Ordered to third reading.

HB 434

repealing the statute permitting time trials of motor vehicles in Rollins State Park. Ought to pass. Sen. Nixon for Resources and Environmental Control.

Sen. NIXON: Mr. President, this bill was the subject of a hearing on April 28. It was introduced by Rep. Hamel of Rockingham and it passed the House. There was no opposition in the House. It appears that the problem is that the road service on Rollins State Park is not up to minimum time trials there. Rep. Hamel testified in support of the bill as did Mr. Raymond LaChance of the New Hampshire Division of Parks. The Committee recommends that it ought to pass.

Adopted. Ordered to third reading.

SB 89

relative to the distribution of state publications. Ought to pass with amendment. Sen. English for Executive.

AMENDMENT

Amend RSA 202-B:4 as inserted by section 1 of the bill by striking out paragraphs (c) and (d) and inserting in place thereof the following:

(c) Intra-office or inter-office publications and forms.

Sen. JACOBSON: Mr. President, our distinguished colleague, Sen. English, introduced this legislation and was to have reported on it but he is still unable to be with us. What SB 89 does is to provide for a method whereby public documents of the various departments and agencies of the state are distributed on a wider state basis. It establishes a procedure whereby 25 copies of these many publications will be deposited with the state librarian who, in turn, will then distribute them to the depository library. This is an effort in order to bring more information regarding the state's operation in its varied departments to the people. It provides an opportunity for them to go to libraries and find out information.

The amendment is a very simple one. It strikes paragraph c, under 202 b-4. That sentence would have, in effect, nullified

the effort of the bill so that this was an error that that sentence came into the bill originally and the Committee removed it and asks that you adopt the amendment and also the bill.

Adopted. Ordered to third reading.

SB 108

increasing the membership of the barbers' board. Ought to pass with amendment. Sen. Ferdinando for Executive.

AMENDMENT

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Membership Increased. Amend RSA 313:3 by striking out said section and inserting in place thereof the following:

313:3 Examining and Licensing Board. There shall be a barbers' examining and licensing board, herein referred to as the board, which shall consist of five members appointed by the Governor with the advice and consent of the Council. At least three members of the board shall be practical barbers who have followed the practice of barbering in this state for at least five years. One member of the board shall be designated as chairman and one as secretary and treasurer. The members shall be appointed to serve for five years. The Governor may remove a member for cause. Members appointed to fill vacancies shall serve during the unexpired terms of their predecessors.

2 Appointments to Board. To carry out the provisions of section 1 of this act, three members shall be appointed to the board in 1972 for the following terms: one member for a term of three years, one member for a term of four years and one member for a term of five years. In 1973 and each year thereafter one member shall be appointed to the board for a term of five years.

3 Effective Date. This act shall take effect sixty days after its passage.

Sen. FERDINANDO: Mr. President, SB 108 does two things. One, it increases the barbers' board from three members to five members and the reason for this is that it was felt that three men were not sufficient enough to cover the entire state. That is the essence of the bill. The amendment is on page 26 and all this does is, in order to carry out the provision,

it determines when and in what year the different members will be appointed to the five year terms. The Committee, in its wisdom, felt that this bill should pass.

Adopted. Ordered to third reading.

HB 242

providing that the reregistration of voters be postponed until 1973 and establishing a committee to study and report on the form of checklists. Ought to pass with amendment. Sen. Jacobson for Executive.

AMENDMENT

Amend section 1 of the bill by striking out the same and inserting in place thereof the following:

1 Reregistration of Voters. Amend RSA 69:26-a, I (supp) as inserted by 1969, 263:1 by striking out said section and inserting in place thereof the following: I. In addition to any verification procedure carried out under the provisions of the foregoing section, the supervisors shall verify the checklist in 1973 and 1981 and once every ten years thereafter.

Amend section 2 of the bill by striking out the same and inserting in place thereof the following:

2 Committee Established. There is hereby established a committee to study the laws relative to checklists and reregistration procedures and to make recommendations for changes thereto. The committee shall consist of fifteen members; ten members shall be or shall have been election officials in the State of New Hampshire and shall be appointed by the Governor; two members shall be members of the Senate and shall be appointed by the President, and three members of the House and shall be appointed by the Speaker. The committee shall elect a chairman, vice chairman and clerk from its members. They shall hold public hearings in the course of their study to receive testimony and information as often and wherever they see fit. They shall report to the General Court on or before January 15, 1973, with their recommendations, including any proposed legislation for revising the laws concerning the checklist. Members of the committee shall serve without compensation but when engaged in the business of the committee, shall be entitled to the same mileage as state employees. The Governor is authorized to draw his warrant for the payment of such mile-

age out of any money in the treasury not otherwise appropriated provided the total amount so appropriated under the provisions hereof shall not exceed three thousand dollars.

Sen. JACOBSON: Mr. President, HB 242 has had a rather erratic and checkered legislative career. It passed this body some weeks ago in a terribly garbled fashion under the pressure that some indication of legislative intent be established so that the various registers of voters could have some indication as to whether they were to proceed or not with the reverification of checklists as passed by the 1969 session of the Legislature. The intention was that once that intent was established, that a succeeding trailer bill or an attached amendment would clarify some of the errors in the bill.

However, when it got to the Governor, the Governor rejected the bill; that is, he did not veto, but he refused to accept the bill, asking that it be recalled because it had an open-ended appropriation so that it would have been impossible for the Committee that is established by this bill to meet every day for the next 18 or 19 months and collect mileage. This was felt, by the Governor, to be slightly excessive. When the bill got back to the Committee, we then proceeded to make several amendments.

First of all, we amended the first section so as to establish a proper procedure in the years ahead for verification in order to conform with the established statute. As you will recall, that statute calls for verification for every 10 years beginning with the year 1. The original HB 242 had simply postponed the registration without taking into account the problems that resulted from this change. What the Senate amendment does is to allow for the first verification to take place in 1973, the next one 8 years after that in 1981 and then follow on out on the 10 year basis. That is one amendment.

The second amendment gives a little more to the Senate in terms of membership. The original bill had three members of the House, one senator and eleven members appointed by the Governor from the public. The amendment makes it three representatives, two senators and ten members from the public.

Another amendment changes the date from December, 1973, which was an incongruous date, to January 15, 1972 for the committee report.

The final amendment is to place a limit on the amount of money which will be drawn from the Governor's Fund at \$3,000. The Committee felt that the average allowance, in terms of mileage, is about \$10 and if they have 20 meetings, this would amount to \$3,000 for a 15 member committee.

I am hopeful the Senate will adopt these amendments and send it on its way.

Amendment adopted. Ordered to third reading.

SPECIAL ORDER OF BUSINESS AT 1:01

HB 328

repealing the statute providing that the labor commissioner shall establish the minimum wages paid and its political subdivisions in the construction of public works and enacting an anti-kickback in public works statute. (Req. by Sen. Lamontagne)

Sen. LEONARD: Mr. President, last week we went into numerous details on this amendment and the bill in general. This weekend, I did some research and found out about an example of how this bill will affect the public construction. The City of Nashua has a fire station under construction, the lowest bid being \$175,000. The city neglected to put in a specification that the labor would be computed at the prevailing union wages. When the building was half completed, the Commission of Labor called the general contractor and told him that he had to pay the prevailing union wages. This was computed by the general contractor and to complete the job, it would cost him \$30,000 more than he computed in his bid. In addition to that, the electrical sub-contractor and the heating sub-contractor will have increased labor costs totaling \$10,000 so that the overall cost to the general contractor and subsequently to the City of Nashua will be \$40,000 of a \$175,000 bid. This is in the vicinity of 22 or 23 percent of the total cost of the project.

I would like to point out that if the higher rates were computed originally, that overhead and profit would be added onto this \$40,000 difference. We are not talking about 5 or 6 or 8 percent — we are talking about a *minimum* of 15 percent and in this case, over 20 percent cost to the taxpayers for the construction of a building. When you apply this to a \$16 million high school that is contemplated in Nashua, you are talk-

ing about a lot of money so we better save the taxpayers by defeating this motion and by passing HB 282 as passed by the House.

Sen. DOWNING: Sen. Leonard, are you aware that the present statute calls for penalties on the violation of the law would be double what the normal cost should have been?

Sen. LEONARD: No, I am not.

Sen. DOWNING: Are you aware that one of the penalties included the enormous sums of money that you had mentioned?

Sen. LEONARD: The penalties are not included and if they were, then we are talking about \$80,000 that the City of Nashua will have to pay because they did not specify the prevailing union rates.

Sen. DOWNING: But senator, isn't it possible that the penalties are included in the \$40,000 so it would be \$20,000 without the penalty?

Sen. LEONARD: No possibility whatsoever. I talked to the general contractor and these are his basic figures for labor alone — no penalties.

Sen. DOWNING: Are you aware that this project would have been well within the exemption had the exemption in the amendment now been in existence?

Sen. LEONARD: I am aware that it would be within the exemption and I am aware that had this building cost a million dollars, there would be a lot more money saved.

Sen. SNELL: Mr. President and members of the Senate, I stated, during my campaign, that one of the strongest influences on my voting on any issue will be the expressed wish of the people of my district. In my first bi-monthly news column, I stated "I am vitally interested in knowing how you feel about current issues and will be pleased to hear any suggestions you may have for future legislation to make New Hampshire the best place possible for *all* its citizens." As of Monday, May 3, I received 71 letters concerning HB 328; asking me to vote against HB 328 and 10 letters in favor, however, these 10 letters were not from my district. I would like to briefly quote four of such communications that I received:

"Please vote against bill 328 on May 4. I am 8 years old and my sister is 7."

"HB 328, in my opinion, is perhaps the grossest example of mockery of capitalism ever recorded."

"I am a registered voter and taxpayer in the Town of Lee, New Hampshire and I pay my share of outrageous taxes like a lot of other people here."

From Raymond: "The HB attacks the employee, not the employers' profit nor does it take into consideration the increased cost of materials. For an example, just today I bought a bag of cement that cost me 40 cents more than the same bag of cement did in December of 1970. Another increase has been suggested for the same item in the near future."

So, my mind has been questioned and during this weekend, I did a great deal of research, time and effort spent on this particular bill. This bill affects 5 percent of the labor force in the State of New Hampshire. Yet, I questioned myself over the weekend, these 5 percent are concerned about the three basic fundamental responsibilities of a family being shelter, food and clothing. They also desire the best possible medical attention known to man, they desire the best dental care, they desire the best education for their families. They also desire the best community services that a town, county and state government can give them. So I question why we should be so concerned about 5 percent of our labor force when we are not concerned about the other 95 percent. Are we concerned that our school teachers and professors of college are asking for a cost of living raise? Are we concerned that our fireman within our communities are asking for a cost of living raise? Are we concerned when the supplier of steel is asking for 10 and 15 percent raise on prime prices? This whole problem is a national one and we should realize that if we are going to have a freeze on a given segment of our society, it should be a national effort so that each one of us should have a freeze on our salaries and on prices throughout the United States.

It has been estimated that the passage of HB 328 would mean a savings of \$10 million to the taxpayer in state-approved construction costs. I am sure that this estimate is grossly exaggerated. The savings would apply only to \$20 million worth of construction projects and would save the state not more than

\$2 million and this at the expense of the worker. With the cost of living still rising in some areas, it seems to me that it would be foolhardy to cut corners at the expense of the wage-earner who actually carries the larger share of the tax burden. Cutting back of wages is hardly the way to bolster our economy.

My mind has remained open. I have listened to the opinions of others and hopefully, I have considered them fairly but I still have that right to disagree with my colleagues. We have heard testimony in favor and against HB 328. I question if our minds have remained open concerning this issue during the past two weeks. Endless hours of debate, research and communicating with our constituents have not changed, but only one little individual vote. I stand today in support of the minority report, offering my support for the amendment to HB 328.

Sen. LEONARD: Sen. Snell, what was the greatest number of letters you received on any particular bill this year?

Sen. SNELL: The abortion bill — I received over 400.

Sen. LEONARD: So if an individual, outside of your district, got 400 people in your district to write letters, then they would have you vote any way they wanted?

Sen. SNELL: No sir, and I did not make that statement today.

Sen. LEONARD: Did you say that you listened to your constituents and most of them were against the bill so you are against the bill?

Sen. SNELL: That did not persuade my mind. I said that I was open to my constituents' feelings.

Sen. LEONARD: Do you think that sometimes a member of the Senate or House has more information and background on a particular issue than the constituents?

Sen. SNELL: Yes, I do.

Sen. BRADSHAW: When these proceedings were moved to today at the request of Senator Lamontagne, I stated that I would refrain from asking further questions of the proponents of the minority report amendment. I will stand by that commitment. It remains for me to state, in a positive way, why I believe HB 328 should pass in accordance with the majority report.

I have strong feelings about this legislation because I understand the construction industry and because I understand what the legislation will accomplish generally for the property taxpayer in New Hampshire and specifically for the working man whose share of that tax becomes increasingly disproportionate as each day passes. I recognize the sincere motivation of those supporting the amendment but I have strong feelings about that amendment because it doesn't solve the problems created by RSA 280 and it creates problems of its own.

The basic facts of economic life in New Hampshire today must be kept in mind by each of us as we review what RSA 280 says.

RSA 280 says that whenever the State, a city, a town or other public entity such as a school board authorizes construction, the rates for labor paid on that project shall be the union wage rate negotiated by the trades for that area with two or more union contractors. If, as in Hanover, there is more than one negotiated rate, the higher rate is set by the Labor Commissioner.

Only six states in this country direct that the *union* rate be the so-called rate and New Hampshire is one of them. Even the Federal Davis-Bacon Act calls only for the establishment of the *prevailing* wage not the union wage rate. Our Act goes beyond the Federal Act. Only nine state acts meet the effective enforcement tests of the Bureau of National Affairs. New Hampshire is one of them. Vermont has no such Act. Maine's is ineffective.

No one can deny that we have one of the strongest mini-Davis-Bacon Acts in the country. In the face of today's economic situation, the question is, should we keep it?

When RSA 280 was enacted, we were in a period of deflation. The building trades worker needed help and the New Hampshire Legislature gave that help, putting a floor on his rates when he worked in the public sector. That was 30 years ago.

Now we are in a period of inflation. Others need our help and we should give that help. The property taxpayer needs our help. He asks that we allow public construction projects to go out to bid with the same competitive advantages given to those in the private sector. The New Hampshire Municipal Association says the repeal of RSA 280 will save the cities and towns

money. I believe them when they say so. The cities of Dover, Keene, Nashua, Laconia, Rochester and Concord have said it would help them save money. I believe them.

I *don't* need them to tell me about the plight of the property taxpayer in this State. I am aware of that myself. The elderly, the fixed income pensioners, the low paid workers in the manufacturing industries all feel this bite and anything we can do to ease their tax burden must be done.

The proponents of the amendment tell you on one hand that no money will be saved and on the other, that the building trades worker will lose money. They can't have both sides of that argument. If no money will be saved, no money will be lost. To the extent that little will be saved, little will be lost. That is a basic fact and no one can deny it.

Let's look at some more facts. It has been reliably stated that the average yearly wage in 1970 for the union building tradesman was \$7500.00. Considering that it was also said that the average per capita income in this state was less than $\frac{1}{2}$ of that amount, I would say that the union building tradesman has come into his own. Consider also that this average union building tradesman may also be out of work for several months as has been testified to. He collects his unemployment for that period, an additional amount totaling more than \$1500.00. If he works at any outside jobs he earns more money. If we compare the average building tradesman to the average worker in manufacturing, who works at one job all year collecting no unemployment and makes only about \$5,000.00 according to our Labor Department, we begin to see where the real inflation squeeze is occurring. The New Hampshire workman needs our help in lowering his property tax.

When this man is out of work, as many are these days in the shoe, paper and textile industries, his maximum unemployment benefits are *less* than benefits available to the average union building tradesman. Not only does he get less in unemployment benefits, and pay more of his income in property taxes, he cannot find work.

Traditionally, in this country, we have offered this man who has always worked with his hands, construction work in the public sector. The posted wage rate precludes this. He needs on the job training at reduced rates while he learns. He is happy

to get work at four dollars per hour instead of six or seven, but RSA 280 blocks this avenue. He wants to work, he wants to learn, he doesn't want to collect welfare, or unemployment or loaf. Without flexibility in the kind of work to be done on job sites, or on the wages paid, we are slamming the door in his face.

If anyone wants to call our attention to the 1930's, I ask him to focus on the plight of New Hampshire's working man who cannot find work. For that man, it is the 1930's except that his rent or his property tax is much higher now. That man needs our help — we can give him that help by repealing RSA 280.

Those who say we will return to the 1930's with the repeal of RSA 280 are ignoring the high wages paid in Vermont where there is no mini-Davis Bacon Act. They ignore the high wages paid in this State in the private sector.

In effect, he is keeping them from getting public sector work. With the union rate posted, any Massachusetts, Maine, or Vermont firm can bid competitively on New Hampshire jobs with local New Hampshire contractors. Without the posted rate, the built in travel time and mileage benefits are gone. The local New Hampshire man has an edge. He should get the work, but he doesn't. Let me give you an example.

The posted hourly rate in Berlin for the Iron Worker is \$6.90. Added to that is \$10.00 per day travel expense which is also posted. If a north country construction company did not have to pay that \$10.00 per day travel expense for its employees who live in and around Berlin, there would be a saving of \$10.00 per day per man to the City of Berlin on construction, even if the workers received \$6.90 per hour. Why shouldn't the Pulp and Sulphite Worker in Berlin, who pays the Berlin property tax rate, save tax money without lowering anyone's hourly wage?

Let us turn to the amendment itself.

As I have said, it ignores the complexity of alternate bidding.

It also says that no job is exempt unless President Nixon again suspends the Federal Davis-Bacon Act. If you read it closely, it allows exemptions only to the extent that the Federal Act is suspended AND, not *or*, the contract price is less than \$250,-

000.00. Unless the President suspends the Federal Act, there are no exemptions.

The amendment makes another radical change. It applies any exemption to projects already let and under construction. If an open shop contractor who has bid a job based upon the posted union rates is no longer required to pay them, he may cease paying his employees the bonus the present Act calls for. Although the amount paid to his men is reduced, the cities and towns have no right to reduce their contract price. This means that the bonus will be retained by the contractors, inflating their profits with no benefit to the towns. We should not be voting to inflate contractor profits. We are trying to save money for the cities and towns.

If President Nixon does not suspend the Federal Davis-Bacon Act, there is still the conflict of our posted *union rate* and the federally determined *prevailing* rate. Our Attorney General has testified to the result of such a conflict. We could lose federal money we so desperately need in areas such as water pollution. Our law gives us no flexibility with this amendment. It will stay in effect unless President Nixon suspends the Federal Davis-Bacon Act. This is why Secretary of Labor Hodgson encouraged the repeal of our Act in his telegram to Rep. Trowbridge read before the House after the President reinstated the Federal Law.

Why should we leave it up to Washington to decide in any event. We are trying to protect the citizens of New Hampshire. There is nothing to prevent any city or town from enacting its own mini-Davis-Bacon Act if it chooses. Why should we in Concord tell them how to spend their money when they have asked us not to. With this amendment, we are worsening the situation. Instead of letting the cities and towns make up their own minds, we are passing the buck even further up the chain of bureaucracy to the Federal Government. We cannot pass the buck on this issue. It is too important. The passage of HB 328 without amendment will return the decision to the municipalities where it belongs. If any of them wishes to give artificial support to the wages of one group of working men that is their prerogative.

RSA 280 has been offered for our consideration today. The House has repealed it. By passing this amendment we are re-enacting it. The question is should we enact it. I think the answer is no.

The cities and towns deserve our help. The elderly, the New Hampshire working man and the taxpayer all deserve our help. There isn't much we can do about inflation in the New Hampshire Senate, but whatever we can do we must do. I urge you all to consider your action today carefully.

Emotion, threats of one kind or another, political pressures and other irrelevancies are not at issue here. The economic facts of life in New Hampshire are irrefutable. We must be guided by those facts. No one will be hurt by the passage of this bill. Many will be helped who need that help. I urge you to defeat the minority report and passage of HB 328 as recommended by the majority.

Sen. SNELL: Sen. Bradshaw, do you know the average salary for a school teacher in the State of New Hampshire?

Sen. BRADSHAW: No sir, I do not.

Sen. SNELL: Do you know how many months, approximately, a school teacher works in this state?

Sen. BRADSHAW: I believe the statute calls for a minimum of 180 days.

Sen. SNELL: Correct. Do you know the average faculty salary of a higher institution within our state?

Sen. BRADSHAW: No, I do not.

Sen. SNELL: Do you feel that a request that a teacher receive an increase in cost of living raises, \$500-600 is appropriate in this time of aiding the property taxpayer in the state?

Sen. BRADSHAW: I am a great believer in local decisions and if the teachers are hired by a local community, I think that is their decision; not a decision of the New Hampshire Senate.

Sen. DOWNING: Senator, in your testimony, you mentioned concern with the prevailing versus the union rate and the conflict with the present RSA 280 and the Davis-Bacon Act. You are aware that the amendment would make both of these the prevailing rate so there would be no conflict?

Sen. BRADSHAW: That is not the way I read it, senator.

Sen. DOWNING: Let me clarify it for you — that is the way it would be if the amendment is adopted.

Sen. BRADSHAW: In answer to your first question, the amendment that came out of page 25 of our *Calendar* does not, in my opinion, change from the union rate to the prevailing rate.

Sen. DOWNING: May I quote from the amendment then — “280 would apply to the same extent and in the same manner as the Davis-Bacon Act and this covers the union versus the prevailing rate.”

Sen. BRADSHAW: I believe that is an opinion rather than necessarily a factual case.

Sen. DOWNING: You are concerned with the construction wages as against manufacturing wages. Don't you feel we should be concerned with upgrading the wages of the people in manufacturing rather than reducing the wages of the people in construction?

Sen. BRADSHAW: Senator, I am not convinced that anybody that is normally employed in a construction trade is going to have his wage reduced. I just cannot stretch my imagination to believe that that is going to be the situation. The thing that I am particularly concerned about, and I have been somewhat associated with the construction industry, I am well aware of the fact that for years, there has been a great shortage of craftsmen within the construction grade. At the same time, we have people in shoe plants, in textile plants and in other areas that are unemployed because those businesses have been closed. We are depriving those unemployed people the opportunity to enter the construction field. Those are the people that I feel particularly sorry for. They are the people that are going to be the biggest benefactors out of the repeal of RSA 280.

Sen. DOWNING: The exemption of \$250,000 included in the amendment — if, in the presentation, it wasn't quite clear to you or it was confusing to you at least that this exemption, couldn't it, in fact, apply according to the amendment and if this is still confusing, I wonder if you wouldn't join with me in making it known that it is the intent of the Senate that that exemption does exist and is not affected in any way, shape or manner by the Davis-Bacon Act?

Sen. BRADSHAW: Senator, according to the proposed amendment to HB 328 as printed in the *Calendar*, it says in

part 280:7, Application Chapter: "The provisions of this chapter shall apply *only*: I to Public Works construction projects in excess of \$250,000 *and* II.

Sen. DOWNING: It is quite clear that there are two distinct qualifications.

Sen. BRADSHAW: That is not my understanding, senator.

Sen. DOWNING: Do you object to this being the understanding of the Senate and acting on this amendment, there are two distinct qualifications?

Sen. BRADSHAW: I am not sure that that would satisfy the Supreme Court of the State of New Hampshire and even if it was one or the other, I would be opposed to picking out a figure for reasons that I explained last Thursday, because I happen to be aware of how bids are frequently turned out with alternates that could be either plus or minus and, as far as I am concerned, it just obliterated the whole bidding procedures. If the figure was \$250,000 or \$500,000 or a million dollars, it would not satisfy what I think the important item is as far as RSA 280. I feel it should be repealed.

Sen. KOROMILAS: Did I understand you to say that one of the benefits of the repeal of the Davis-Bacon Act would be that people working in shoe shops now would go into the construction market?

Sen. BRADSHAW: They would have an *opportunity* to enter it if they were so qualified.

Sen. SNELL: Sen. Bradshaw, are you aware that the federal government, in 38 states, say that on jobs where their monies are involved as far as wage rates are concerned, shall not be determined by the length of the unemployment lines as far as the contractors' rates?

Sen. BRADSHAW: I don't know what that does for the good of society.

Sen. SNELL: Are you aware that the federal government, in these 38 states, say that any worker, union or non-union, must be paid at not less than the rates determined to be prevailing at the time of the work being advertised?

Sen. BRADSHAW: The key word here is "prevailing."

Sen. SNELL: Sen. Downing, I believe, pointed this out.

Sen. BRADSHAW: I don't happen to agree with his interpretation, senator. The key word there is "prevailing". Our enforcement of the so-called mini Davis-Bacon Act, RSA 280 is that it shall be the *highest* union rate. There is a lot of difference between that and prevailing rate.

Sen. SNELL: Are you also aware that this can be challenged before the board and also who is appointed by the Governor as far as making decision on prices?

Sen. BRADSHAW: Wage rates established by the Labor Commissioner?

Sen. SNELL: Right.

Sen. BRADSHAW: There is no board involved.

Sen. SNELL: No. The Labor Commission actually. You are aware of this — that they can establish?

Sen. BRADSHAW: I am aware of what they do establish, yes.

Sen. LAMONTAGNE: Mr. President and members of the Senate, first, I would like to say that the repeal of RSA 280 is only attacking the labor. In Berlin, we have a \$3 million school that has now been approved by the Mayor and Council. They didn't wait for this bill to go through and didn't wait to see whether or not the General Court was going to appropriate any funds for building construction. It didn't seem to worry them because I did not get one call from any of the officials that they either favor or oppose this type of legislation. I have only heard from one who favored the bill and that was a close friend, Rep. Foyer.

Outside of that, I have heard from no one who was concerned about whether it would save money for the property taxpayer in Berlin. Although I have many people who not only contacted me by letters, I also had some see me in person to express their views. Therefore, I am forced to vote for the amendment.

Sen. DOWNING: The intent of the amendment is to exempt all projects of \$250,000 or less from RSA 280. The intent of the amendment, further, is to establish rates at the

prevailing rate rather than the union rate as the federal Davis-Bacon Act does now. This is for the record of the Senate.

Sen. SPANOS: Sen. Downing, who was the author of this amendment?

Sen. DOWNING: I was.

Sen. NIXON: Sen. Bradshaw, apart from the mechanics of the particular situation, if we are to effectively combat inflation by keeping costs down for the benefit of the taxpayer, as a matter of basic fairness and equality to all concerned wouldn't we better do it by legislation directed toward freezing *all* aspects of the cost to the taxpayer including labor, prices, profit and executive compensation, rather than jump in favor of a bill which purportedly attempts to do that by attacking only *one* of the cost factors — the wages paid to the working aspect of the situation?

Sen. BRADSHAW: Sen. Nixon, I oppose any price supports and any of the so-called measures to play with our economy to try to straighten it out. I have never been convinced that any of them work. The only law that we have on our books that gives price support is RSA 280 and that is only for one, small segment of our people and consequently, I feel that it should be done away with. It returns us to a free enterprise system that we have as far as materials are concerned and in as far as teachers' pay is concerned and everything else. All we are is removing one bubble on the price support — the only one we have.

Sen. NIXON: In that connection, I believe I understood you to say that the passage of HB 328, without amendment, would not detrimentally effect the earnings of any working man. Was that correct?

Sen. BRADSHAW: Yes. We have got to understand a few things. First of all, there are many people employed in this state, at the present time, that work under a union contract. That rate is not going to change. The contractors have to pay it whether it's on a job in a private sector or public sector. So, that wage is not going to drop. We also have a situation whereby, on certain jobs, we have to see people imported from other states to fill the labor market. I think that it is our responsibility to look out for the working people of this state.

We should give them an opportunity to enter these fields and get their training and provide the work that is to be done within the state. This would allow it.

Sen. NIXON: I understand your argument, but my problem, going back to the previous question is that if, in fact, the passage of this law would not, as I understood you stated, detrimentally affect in any way the wages of the workmen, then how can you at one and the same time, claim, on behalf of the bill, that it will reduce costs to the taxpayers?

Sen. BRADSHAW: I am not claiming, personally, senator, that this is going to save \$2 million, \$10 million or 10 cents. I did not make that claim. I stated that the N. H. Municipal Association has stated that it would save money. I have stated that the cities of Concord, Nashua, Keene, Laconia, Rochester, have all stated that it would.

Sen. NIXON: Well, would you agree with me to the extent that these claims be borne out that the savings would be effected, if any savings, at the expense of the fellows who work with the tools, particularly the fellows who work with tools and do not have the protection of the union scale?

Sen. BRADSAW: I feel that rather than hurt any workers, we actually are going to be increasing the lot of the workers because we are going to be able to take some people who are presently unable to enter the field and we are going to put them back in a situation where they can support their own families instead of waiting for the unemployment check. There is much construction that should be done in the State of New Hampshire that is being done very slowly because of the lack of people within the trades or because the people are not available within the state. I think the workers are going to benefit if we repeal this.

Sen. NIXON: Do you really believe we are talking about the same bill?

Sen. BRADSHAW: Yes.

Question — Minority Report — ought to pass with amendment.

Roll call requested by Sen. Spanos.

YEAS: Sens. Lamontagne, Snell, Spanos, Nixon, Fer-

dinando, McCarthy, Provost, Marcotte, Koromilas, Downing, Foley.

NAYS: Sens. Poulsen, S. Smith, Townsend, Gardner, Jacobson, Bradshaw, Porter, Leonard, R. Smith, Brown, Tufts.

Sen. Morrissette abstained under Rule 42.

Result: 11 Ayes, 11 Nays, Motion lost.

Sen. SPANOS: Mr. President, I move that HB 328 be re-committed to the Committee.

Discussion.

Sen. Spanos withdrew his motion.

Sen. NIXON: Mr. President, I respectfully move that the sum, \$250,000 in paragraph I of the amendment to HB 328 proposed, be changed to \$500,000.

AMENDMENT

Amend the title of said bill by striking out the same and inserting in place thereof the following:

AN ACT

limiting the provisions of the Davis-Bacon Act to certain projects and equating the state act with the federal act.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Provisions Limited to Certain Projects. Amend RSA 280 by inserting after section 6 the following new section:

280:7 Application of Chapter. The provisions of this chapter shall apply only:

I. To public works construction projects of five hundred thousand dollars, or

II. To the same extent and in the same manner as the Davis-Bacon Act, PL 798 of the 71st Congress 2nd Session, presently exists or is later amended.

2 Application to Existing Contracts and Invitations to Bid. The provisions of section 1 shall apply to all projects under construction or for which bids have been let or for which bids have

been requested prior to the effective date of this act until such project is completed.

3 Effective Date. This act shall take effect upon its passage.
Amendment adopted.

SB 153

clarifying the powers of counties and county conventions in determining salaries for county officers. Ought to pass with amendment. Sen. Jacobson for Executive.

AMENDMENT

Amend the bill by striking out section 3 and inserting in place thereof the following:

3 Compensation to County Officers. Amend RSA 24 by inserting after section 23 (supp) the following new sections:

24:24 Salaries for Certain Officers. The annual salary of the county attorney, assistant county attorney, sheriff, deputy sheriffs, register of deeds, treasurer, deputy treasurer and county commissioners shall be established by the county convention, upon recommendation of the executive committee. The salaries shall be established annually. Where salaries of any of the aforementioned officers are prescribed by a statute which is repealed by the act enacting this section, any salary or other compensation hereafter established for any such office, shall not be for a lesser amount, than the holder of such office was entitled to during calendar year 1971.

24:25 Register of Deeds. As determined annually by the convention, upon recommendation of the executive committee, the register of deeds shall be compensated in full for his services by an annual salary, plus a percentage of the fees collected pursuant to the provisions of RSA 478:17a.

Further amend the bill by striking out section 6 and inserting in place thereof the following:

6 Salaries of Sheriffs. Amend RSA 104:29 (supp) as amended by striking out said section and inserting in place thereof the following: 104:29 Salaries of Sheriffs. The annual salary for all sheriffs shall be established pursuant to the provisions of RSA 24:24, and shall be payment in full for all services to the county. Each county shall provide its sheriff with suitable transportation and no sheriff shall be paid mileage. Each

sheriff shall be allowed reasonable expenses incurred during the performance of his duties and such expenses shall be subject to the approval of county commissioners. For the service of civil writs and other process which a sheriff may perform he shall collect the usual fees allowed for such services and mileage and shall pay over directly to the county treasurer all such fees and mileage charges at the end of each month. He shall in his annual report to the county commissioners report the number of civil writs and other process served and the total amounts collected in fees and mileage charges paid over to the treasurer during the calendar year.

Amend section 8 of the bill by adding at the end thereof the following new paragraph:

XXX. Repeal RSA 478:17; 478:17b; 478:17c; 478:17d; 478:17e and RSA 478:18c.

Sen. JACOBSON: Mr. President, I move that HB 153 be laid on the table.

Adopted.

SUSPENSION OF RULES

Sen. LAMONTAGNE: I move suspension of rules so that HB 328 be placed on third reading and final passage at the present time.

Adopted.

THIRD READING

HB 328, limiting the provisions of the Davis-Bacon Act to certain projects and equating the state act with the federal act.
Adopted.

Sen. KOROMILAS: I move that we now reconsider HB 328.

Motion lost.

Sen. JACOBSON: I move that SB 153 be taken from the table and be considered at the present time.

Adopted.

Sen. JACOBSON: As you all know, there is considerable discussion around these halls relating to legislative and governmental reform. SB 153 represents an effort in the direction of reforming part of the processes which relate to County Gov-

ernment. What this bill does is to deposit in the County delegations the responsibility for establishing the salaries and fees for their respective County officers beginning in 1972, and additional provision protects present salaries and other forms of compensation, such as fees collected by registrars of deeds so that such emoluments shall not be less than they are in 1971.

One present method; granting this power to the legislature as a whole, is both cumbersome and expensive and without meaningful rationale. Except for legislators directly related to a particular county, such decisions elicit no significant interest. This bill places these questions where there is a direct interest.

Furthermore, this bill ends the ancient fee system for sheriffs. At the present time, 8 out of 10 sheriffs are now on salary. The two remaining sheriffs support the adoption of this uniform salary system. Again, this bill restores Senators to membership on County delegation. Some Senators represent more than one County, but their entitlement of representative is restricted to the county wherein they reside.

The amendment clarifies some points in the bill. Originally, the bill called for a biennial establishment of salaries for county officers. The committee found evidence that changing this procedure to "annually" would be a more useful method. Again, the amendment clarifies the salary for registrars of deeds whereby the method of salary and fees are universalized. Finally, consistent with the main thrust of this bill, the approval of expenses of sheriffs shall be the responsibility of the County Commissioners. At present, this function lodges in the judiciary of the Superior Court. As I understand it, the Court desires relief from this responsibility which can only by the evident stretch of the imagination be considered a judicial function.

I've never introduced a bill that has had greater support than SB 153. Except for some minor points, some of which are part of the proposed amendment, there was strong support from these most directly concerned. Passage of SB 153 will, in my view, be an important step forward in governmental reform.

Finally, as some may recall, I introduced a modest piece of legislation which had as its purpose a miniscule increase in the mileage allowance. This bill now languishes quietly in the Senate Finance Committee and I presume that the Committee will presently give it a proper burial.

I only want to say that my bill would have given me an economic benefit of \$63.00. To those who would define me as a spendthrift for doing so, I would only say that this bill will save thousands of dollars in the future and many hours of legislative effort. I am hopeful that this bill provide at least a modicum of corrective redemption in establishing me as a conservator of public funds as well.

Sen. KOROMILAS: Concerning RSA 24:24 — could you tell us what that says?

Sen. JACOBSON: That says that the annual salaries shall be established by the county convention upon recommendation of the executive committee of that convention and that it shall be established annually.

Sen. KOROMILAS: Does that refer to 24:24 right after paragraph 3?

Sen. JACOBSON: Yes. That is just the introduction.

Sen. KOROMILAS: In what section is the adding the senators to the county delegation?

Sen. JACOBSON: In the original bill, it is in paragraph 2 on the first page.

Sen. KOROMILAS: Are the senators on the county delegation concerned with the purposes of increasing salaries *only* or does it have to do with every item that the county convention or delegation has to do with. In other words, would the senator on the delegation be limited to the question of increasing salaries?

Sen. JACOBSON: No. The senator would have full power as any other member of the delegation.

Amendment adopted. Sen. Tufts abstained from voting.

Sen. Koromilas voted no.

Sen. JACOBSON: Mr. President, I offer a further amendment to SB 153 which is not part of the Committee report.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

clarifying the powers of counties and county conventions in determining salaries for county officers and providing that the county convention shall fill vacancies in county offices.

Amend the bill by striking out section 9 and inserting in place thereof the following:

9 Filling Vacancies in Office of County Commissioner. Amend RSA 64:9 by striking out said section and inserting in place thereof the following: 64:9 Filling Vacancies. In case of any vacancy in any county office the county convention, shall appoint a commissioner to perform the duties of the office, who shall be subject to the requirements and liabilities, and entitled to the privileges and emoluments of such office during the vacancy.

10 Filling Temporary Vacancies in Office of County Commissioner. Amend RSA 64:10 by striking out said section and inserting in place thereof the following: 64:10 Temporary Vacancies. If any person holding either of such offices shall, by reason of illness, accident, absence from the state, or other cause, become temporarily incapacitated and unable to perform the duties of his said office, the county convention may, upon application of the attorney or a majority of the county commissioners, declare a temporary vacancy and fill the same, in the manner provided in section 9, for a limited period of time expressed in the appointment and may extend or shorten said period to meet the situation, and may award proper compensation to the appointee for services and expenses.

11 Effective Date. This act shall take effect January 1, 1972.

Sen. JACOBSON: Mr. President, this amendment which I offered is a further extension of a power of county delegation and a further diminishment of the power of the Judiciary in county affairs. What this bill does is takes the power that now lodges in the Judiciary to fill vacancies of county commissioners, both total and temporary vacancies, and places it into the county delegation where I believe it properly belongs. I understand that the Judiciary feels that this is the proper procedure as well.

Sen. FOLEY: Concerning the filling of these vacancies — will the county commissioners fill a vacancy if one occurs?

Sen. JACOBSON: No, the county delegation will fill it.

Sen. FOLEY: Does it say that if a person is a Republican and resigns, must it be filled with someone from their party?

Sen. JACOBSON: No. It would be filled by whomever they appoint. There isn't now, in the law, that provision.

Sen. FOLEY: I think you are wrong, but I am not sure.

Sen. JACOBSON: May we have a recess because I didn't see it.

RECESS

Sen. KOROMILAS: As I understood the amendment, it only pertains to the selection of county commissioners by the delegation — is that correct?

Sen. JACOBSON: That is right. It changes it from the present system of the Judiciary doing it to the county delegation.

Sen. KOROMILAS: What happens if, for one reason or another, the county attorney or the register of deeds leave the employ of the county?

Sen. JACOBSON: The same thing. It includes *all* county officials who are elected. It is the same way that the Judiciary has the selection of officials.

Floor amendment adopted. Sen. Tufts abstained from voting.

Sen. Koromilas voted no.
Ordered to third reading.

PERSONAL PRIVILEGE

Sen. BROWN: Mr. President, I rise on a point of personal privilege. Last Wednesday I was confronted by a labor organization official in relation to HB 328. I was told by this official that where I'm in the construction business and if I were to vote for HB 328, he would picket and harass me causing me to be out of business in six months.

Mr. President . . . since being elected Senator from District 19, I have conducted myself in a way which would bring credit to my district and credit to the State of New Hampshire. I have voted for or against measures which I felt were in the best in-

terest of the people of my district and the state. I *have* not and I *will* not be intimidated. By my statement today I hope the Honorable Members of this body will take cognizance of the tactics that have been used in the past and may be used in the future.

Sen. Spanos moved the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock.

Adopted.

LATE SESSION

Third reading and final passage

HB 214, making supplemental appropriations for the expenses of the Department of Health and Welfare, industrial school, and the state prison for the fiscal year ending June 30, 1971.

SB 147, relative to the voluntary retirement of supreme and superior court justices.

HB 516, relative to uniformed police officers in attendance at public dances, carnivals and circuses.

HB 434, repealing the statute permitting time trial of motor vehicles in Rollins State Park.

SB 89, relative to the distribution of state publications.

SB 108, increasing the membership of the barbers' board.

HB 242, providing that the registration of voters be postponed until 1973 and establishing a committee to study and report on the form of checklists.

SB 153, clarifying the powers of the counties and county conventions in determining salaries for county officers and providing that the county convention shall fill vacancies in county officers.

Sen. Tufts abstained from voting.

Sen. Jacobson moved reconsideration. Motion lost.

HB 328, limiting the provisions of the Davis-Bacon Act to certain projects and equalizing the state act with the federal act. (Passed under Suspension of Rules)

Adopted.

Sen. Morrissette moved the Senate adjourn at 3:30 P.M.
Adopted.

Wednesday

5May71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Guest Chaplain, Rev. William Marsell of the United Church of Christ of Gilmanton Iron Works, New Hampshire.

ALMIGHTY GOD, KING OF KINGS AND LORD OF LORDS from Whom proceedeth power and dominion in heaven and earth: most heartily we beseech Thee to look with favor upon Thy servants, the Governor of our State, the members of this august body coming from all parts of our State and all others in authority.

Imbue them with the spirit of wisdom, goodness and truth; and so rule their hearts and bless their endeavors that law and order, justice and peace may prevail as never before everywhere.

Continue to preserve us from public calamities; from pestilence and famine; from conspiracy and rebellion.

Make us strong and great in the fear of God and in the love of righteousness so that, being blessed of Thee, we may become a blessing to others.

Bless our State with honorable industry, sound learning and pure religion. Defend our liberties and preserve our unity. Save us from violence, discord and confusion and from pride and arrogance.

In a world of bewildering confusion give us grace to become and remain good servants, more completely surrendered

in our devotion to the end that our performance of duty may be to achieve the common good of all the people of our State. Amen.

Pledge of Allegiance was led by Rev. Shafer.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 199, relative to actions by and against tenants. (Foley of Dist. 24 — To Judiciary.)

SB 200, relative to indemnification agreements between architects, engineers or surveyors and owners, contractors, sub-contractors or suppliers. (Brown of Dist. 19 — To Judiciary.)

SB 201, relative to the state apprenticeship council. (Bradshaw of Dist. 10 — To Education.)

SB 202, prohibiting state police officers from using police cars for personal matters. (Morrissette of Dist. 16 — To Public Works and Transportation.)

SB 203, amending the percentage limit of out-of-state students enrolled at the University of New Hampshire. (Morrissette of Dist. 16 — To Education.)

SB 204, providing for the payment of interest on real estate tax payments paid by mortgagors to banking institutions. (Morrissette of Dist. 16 — To Banks, Insurance and Claims.)

SB 205, relative to interest rates on loans being charged by banks. (Morrissette of Dist. 16 — To Banks, Insurance and Claims.)

SB 206, relative to investments by banks. (Morrissette of Dist. 16 — To Banks, Insurance and Claims.)

SB 207, providing that front license plates on motor vehicles shall be illuminated at night. (Bradshaw of Dist. 10 — To Public Works and Transportation.)

SB 208, relative to payment of certain property taxes by firms which hold money designated for the payment of taxes in escrow accounts. (Morrissette of Dist. 16 — To Banks, Insurance and Claims.)

SB 209, exempting county farms from property taxes.

(Tufts of Dist. 23 — To Executive Departments, Municipal and County Governments.)

SB 210, enlarging the conditions under which federal or state aid projects may be pre-financed and extending the term of borrowing for the same to five years. (Poulsen of Dist. 2 — To Public Works and Transportation.)

SB 211, relative to personnel employed during a strike. (Marcotte of Dist. 20 — To Ways and Means and Administrative Affairs.)

SB 212, to reduce motor vehicle repair costs and insurance rates. (Leonard of Dist. 13, Nixon of Dist. 9 — To Banks, Insurance and Claims.)

SJR 21, establishing an interim committee to investigate and inventory the state's scenic rivers, report on its findings, draft proposed legislation and making an appropriation therefor. (Porter of Dist. 21 — To Resources and Environmental Control.)

CACR 31, Relating to: Establishment of an Environmental Bill of Rights. Providing That: The rights of the people to the enjoyment of their environment shall not be abridged. (Porter of Dist. 12 — To Judiciary.)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 615, permitting abatement of uncollectable interest and dividend taxes. (Ways and Means and Administrative Affairs)

HB 664, providing procedural amendments to the search warrant statute. (Judiciary)

HB 669, to eliminate the blood test requirement for barbers and hairdressers. (Public Health, Welfare and State Institutions)

HB 684, providing that a helper may set or haul lobster and crab traps only in the presence of and aboard a boat belonging to a licensed lobsterman. (Recreation and Development)

HB 691, increasing certain town clerk fees. (Executive Departments, Municipal and County Governments)

HB 748, continuing in existence the state commission on the status of women. (Ways and Means and Administrative Affairs)

HB 764, increasing the bond required of certain county officers. (Executive Departments, Municipal and County Governments)

HB 799, relative to the board of arborists. (Recreation and Development)

HB 545, permitting the conduct of beano games on Sunday and increasing the fee for beano licenses. (Ways and Means and Administrative Affairs.)

HOUSE CONCURRENCE

SB 63, providing that experts involved in tests under implied consent statute are not required for court testimony unless prior notice is given.

SJR 13, making a supplementary appropriation for the Liquor Commission for fiscal year 1970-71.

ENROLLED BILLS REPORT

HB 214, making supplemental appropriations for the expenses of the Department of Health and Welfare, industrial school, and the state prison for the fiscal year ending June 30, 1971.

HB 434, repealing the statute permitting time trials of motor vehicles in Rollins State Park.

HB 516, relative to uniformed police officers in attendance at public dances, carnivals and circuses.

SB 63, providing that experts involved in tests under implied consent statute are not required for court testimony unless prior notice is given.

SJR 13, making a supplementary appropriation for the Liquor Commission for fiscal year 1970-71.

HB 47, relative to traffic surveys and truck weight surveys.

HB 260, requiring insurance companies to pay the cost of physical examinations where the insureer requires them before extending liability coverage.

HB 314, providing for investigation of a lake management structure on Silver Lake.

HB 426, clarifying the powers of assistant moderators to administer oaths.

HB 429, prohibiting the renaming of certain natural and man-made formations in the state.

HB 443, increasing the debt limit for school construction in the Town of Bedford.

HB 490, relative to the New Hampshire annual conference of the Methodist Church.

HB 654, relative to the associate degree programs of Keene and Plymouth state colleges.

SB 125, to repeal certain statutes relative to the width of rims of wagon wheels and to chaining wheels on hills.

HJR 8, relative to retirement credit for Herbert R. Hagstrom.

For The Committee.
Sen. Ferdinando

ENROLLED BILLS AMENDMENTS ON

SB 16, relative to the establishment of the position and salary of the associate justice and deputy clerk of the Nashua District Court. Ought to pass with amendment. Sen. Ferdinando for the Committee.

AMENDMENT

Amend section 1 of the bill by striking out lines 1 through 6 and inserting in place thereof the following:

1 Associate Justice. Amend RSA 502-A:3-a (supp) as inserted by 1969, 124:1 by striking out said section and inserting in place thereof the following: 502-A:3-a Associate Justice, Manchester and Nashua District Courts. The Manchester District Court and the Nashua District Court in addition to the justice

shall each have a full-time associate justice appointed and commissioned by the

Amend section 2 of the bill by striking out the same and inserting in place thereof the following:

2 Salary, Associate Justice. Amend RSA 502-A:6, I-a (supp) as inserted by 1970, 124:2 by striking out the same and inserting in place thereof the following, so that said paragraph as amended shall read as follows: I-a Salary of Associate Justice, Manchester and Nashua District Courts. The annual salary of the associate justices of the Manchester District Court and the Nashua District Court shall each be an amount one thousand dollars less than the amount paid the justice thereof as provided in paragraph I.

Amend section 3 of the bill by striking out lines 1 through 5 and inserting in place thereof the following:

3 Deputy Clerk. Amend RSA 502-A:7-a (supp) as inserted by 1969, 124:2 by striking out the same and inserting in place thereof the following, so that said section as amended shall read as follows: 502-A:7-a Deputy Clerk, Manchester and the Nashua District Court. The Manchester District Court and the Nashua District Court shall each have a deputy

Amend section 4 of the bill by striking out the same and inserting in place thereof the following:

4 Salary of Deputy Clerk. Amend RSA 502-A:6, IV (supp) as inserted by 1969, 124:4 by striking out the same and inserting in place thereof the following, so that said paragraph as amended shall read as follows: IV Salary of Deputy Clerk, Manchester and the Nashua District Court. The annual salary of the deputy clerks of the Manchester District Court and the Nashua District Court shall each be in an amount equal to sixty percent of the salary paid the associate justice thereof, as provided in paragraph I-a.

Sen. LEONARD: Mr. President, when the bill was amended in the House, the language was indefinite and it could have been interpreted in two ways, referring to Nashua and Manchester District Courts, that there be one full-time justice instead of two. The obvious intent was *two* so the words were changed to make it more definite.

Sen. MORRISSETTE: Did you say that this bill would also affect the City of Manchester?

Sen. LEONARD: No. The section that was amended by the House was the section setting up two full-time judges in Manchester. Nashua now has the same set-up. But, when the amendment was worded, it could have affected, adversely, both Manchester and Nashua because it changed the original language. This was reworded so that problem doesn't exist.

Sen. MORRISSETTE: How does the Board of Aldermen and Mayor in Nashua feel about this?

Sen. LEONARD: There are people against almost any bill you have, but in my opinion, the vast majority of the people in Nashua are in support of this bill. The Mayor was against it and the Aldermen that I talked to were for it.

Amendment adopted.

HB 265, prohibiting the use of motor boats on Mirror Lake in Woodstock. Ought to pass with amendment. Sen. Ferdinand for the Committee.

AMENDMENT

Amend section 1 of the bill by striking out the first two lines and inserting in place thereof the following:

1 Motor Boats Prohibited. Amend RSA 486 by inserting after section 10 the following new section: 486:11 Mirror Lake. On and after the

Amendment adopted.

INTRODUCTION OF SENATE CONCURRENT RESOLUTIONS

First, second reading and referral

SCR 5, pertaining to welfare payments. (Rules and Resolutions)

SCR 6, pertaining to credit on tax payments. (Rules and Resolutions)

COMMITTEE REPORTS

SUSPENSION OF RULES

Sen. POULSEN: Mr. President, I move that the rules of

the Senate be so far suspended as to allow the introduction of a committee report with only one day's notice of the hearing.

Adopted.

SB 129

relative to local parking ordinances. Ought to pass. Sen. Poulsen for Public Works and Transportation.

Sen. POULSEN: Mr. President, SB 129 was introduced by Sen. Foley. It takes care of the situation wherein the existing statute, the state law controls where there is a conflict of city law. This goes back to RSA that had a whole group of road regulations under 71. Under the terms of this "good roads bill", the state law superseded any local ordinances. The City of Portsmouth found out that their own parking ordinances were illegal because the state parking laws superseded them. The City Council of Portsmouth ruled that their own ordinances were illegal. This bill removes that ability of the state law to supersede the town law in these cases.

Sen. KOROMILAS: Sen. Poulsen, this particular bill only pertains to Portsmouth — is that the idea?

Sen. POULSEN: No, sir. It applies to the state as a whole.
Adopted. Ordered to third reading.

SB 161

increasing the penalties for throwing trash on highways or highway right-of-ways. Ought to pass. Sen. Porter for Resources and Environmental Control.

Sen. PORTER: Mr. President, SB 161 was introduced by Sen. Jacobson. The bill does two things. It provides for violation of the law when refuse or trash is thrown onto the highway right-of-way in addition to the words "highway" in the law. It also increases the minimum fine for breaking this law. The Committee heard no testimony in opposition. Sen. Jacobson was kind enough to point out that most of the trash was thrown on the right-of-way and he feels that this will provide a new elasticity to the enforcement of this law.

Sen. S. SMITH: Was there any evidence as to what most of the trash consists of?

Sen. PORTER: No, sir. That was not presented.
Adopted. Ordered to third reading.

HB 248

establishing an interim commission to study floodplains. Ought to pass. Sen. Porter for Resources and Environmental Control.

Sen. PORTER: Mr. President, HB 248 was introduced by Rep. Kopperl. It relates to the interim commission to study floodplains. This is an outgrowth of the flatland commission which has been reviewing similar problems in the last year. They have not had time to adequately study floodplain problems in the state. This will create a 9 member commission composed of three senators, three representatives and three members of the public. They will study the present floodplain laws, hold public hearings and propose or recommend any future legislation.

Sen. KOROMILAS: Sen. Porter, what is the gauge of the problem with respect to this bill? How large a problem is it?

Sen. PORTER: I am not thoroughly acquainted with the problem. I understand, from the hearing, that the wide range of the problem throughout the state is with the various watersheds.

Sen. KOROMILAS: Don't you feel that these new commissions that are being set up by various committees for various purposes would be better served by referring them to the Legislative Study Committee that sits here in between the terms? Why do you feel a new committee should be established for this particular purpose?

Sen. PORTER: The persons who are nominated or named to this committee would have the expertise and the particular interest and could dedicate themselves to this particular aspect of the problem.

Sen. KOROMILAS: Doesn't the bill require the selection of three from the Senate, three from the House and three appointed by the Governor?

Sen. PORTER: Yes, it does.

Sen. KOROMILAS: You say this is a better committee than the Legislative Study Committee?

Sen. PORTER: I am saying that the committee which

would be named to do this particular aspect of the environmental control problem probably would be more dedicated and have more expertise in these areas than a general committee.

Sen. JACOBSON: Mr. President, I rise in support of HB 248. I served on the Interim Legislative Commission to study the inland wetlands and as we got into this problem of the wetlands, we found that the floodplain question was a question onto itself since most of the wetlands areas relate to lakes, whereas the floodplains mostly relate to flowage and rivers. Therefore, in order not to go too far afield, we limited ourselves to the specifics of the wetlands. Rep. Kopperl was chairman of that Inland Wetlands Commission and on the basis of our preliminary understanding of this problem, he introduced this legislation.

If you want an example of floodplains, I suggest you go up to the Seventh District and cross the bridge after you leave Rt. 93 and head into Boston. Just about this time of the year, you will probably see some. The potential for problem lies with respect to such things as housing developments. If a huge housing development should get into that, that would constrict the river in such a way that you would create an overflow of tremendous force and potential damage that might run into the thousands and millions of dollars. This is one of the reasons why this study, in my opinion, is needed.

Sen. KOROMILAS: Would you say that the expertise on the Wetlands Committee was greater than the Legislative Study Committee could have had?

Sen. JACOBSON: I will judge of the expertise, but the Inland Wetlands Commission was made up of persons both from the Legislature and outside who had an interest in environmental control and quality and as we moved along, we did gain some expertise. The members from the public had a very special kind of expertise. We had Mr. Richards of the Audubon Society who is an expert on wildlife, Mrs. Heale who has a long-standing interest in that matter and Mr. Upton, who has been chairman of Fish and Game Commission.

Adopted. Ordered to third reading.

SUSPENSION OF RULES

Sen. PORTER: I move that the rules of the Senate be so far suspended as to allow the introduction of a committee report not properly advertised in the *Journal*. The bill in question is SB 163 with amendment.

Adopted.

SB 163

prohibiting dumping materials from out-of-state. Ought to pass with amendment. Sen. Porter for Resources and Environmental Control.

AMENDMENT

Amend section 1 of the bill by striking out all after paragraph 147:30-e and inserting in place thereof the following:

147:30-f Prohibition. No person, firm, corporation or other legal entity shall deposit, or cause or permit to be deposited, any waste matter in any structure or on any land within the state or in the territorial waters of the state, which waste matter originated outside the state. Nothing in this section shall be construed to prohibit the transportation of waste matter into the state for use as a raw material for the production of new commodities which are not waste matter as defined.

147:30-g Exemption. Nothing in RSA 147:28-a shall be construed to prohibit the disposal of out-of-state garbage, manure, putrescible materials or refuse at a public disposal facility provided the out-of-state city or town or origin is a participating member of a New Hampshire regional refuse disposal district as provided in RSA 53-B, or has arranged to share public disposal facilities with a New Hampshire city or town.

147:30-h Penalty. Whoever shall violate this section shall be punished by a fine of not less than two hundred dollars nor more than two thousand dollars for each violation. Each day that such violation continues or exists shall constitute a separate offense.

147:30-i Jurisdiction. The superior court, upon complaint of the attorney general, the municipal officers of any municipality, or any local or state health officer, shall have jurisdiction to restrain or enjoin violations of this section, and to enter decrees requiring the removal from the state of waste matter deposited

in violation of this section. In any such civil proceeding neither an allegation nor proof of unavoidable or substantial and irreparable injury shall be required to obtain a temporary restraining order or injunction, nor shall bond be required of the plaintiff; and the burden of proof shall be on the defendant to show that the waste matter involved originated within the state.

Sen. PORTER: Mr. President, SB 163 had a hearing on April 29 and a couple of amendments were submitted. The first amendment deals with the addition of "or in the territorial water of the state to prohibit the dumping of any foreign or non-New Hampshire waste material." The second amendment which was proposed is providing an exemption whereby the inter-state compacts exists on the disposal of out-of-state garbage and other materials. The bill itself was introduced by Sen. Tufts in the interest of preventing large-scale movement of solid wastes of other states into New Hampshire to fill up certain gravel pits in areas at the present time. He felt that it was a problem that could exist and he introduced this bill to prevent such action.

Several people appeared in favor of the bill and none in opposition.

Sen. LEONARD: Sen. Porter, at your hearing, was there any discussion on the new process where they take waste material, industrial and residential, and put it under 2-3,000 tons of pressure to make rocks that they use for the filling of land?

Sen. PORTER: Senator, I think I recollect that there were a few brief words.

Sen. LEONARD: Did you get into the discussion of this where it was indicated that it would be a big field in the future and it would be an answer to get rid of a lot of waste?

Sen. PORTER: That was not brought out in the hearing.

Sen. LEONARD: In your opinion, the way this is amended, would that be allowed?

Sen. PORTER: If, under this exemption which is provided for within this amendment, it could be if it was compacted solidly.

Adopted. Ordered to third reading.

SUSPENSION OF RULES

Sen. JACOBSON: Mr. President, I move that the rules of the Senate be so far suspended as to allow a committee report not properly advertised in the *Journal*. This relates to HB 589. Adopted.

HB 589, legalizing certain town meetings in the Town of Windham. Ought to pass with amendment. Sen. Poulsen for Executive.

AMENDMENT

Amend section 1 of the bill by striking out in line five the numerals "1969" and inserting in place thereof the numerals (1967) so that said section as amended shall read as follows:

1 Town Meetings Legalized. All the acts, votes and proceedings, including but not being limited to adoption of zoning ordinances and a building code and amendments to each, taken at regular and special town meetings held in the Town of Windham on September 18, 1959; March 9, 1960; March 14, 1962; March 10, 1964; and May 23, 1967 are hereby legalized, ratified and confirmed.

Sen. JACOBSON: The sponsor of the bill, the representative from Windham, spoke to me today and said there was some urgency with respect to this bill. If the bill did not pass the Senate today, they would be forced to enter into a rather expensive ad which would publish their entire zoning ordinance. The bill itself legalizes a series of meetings that were held at which there was adoption of the zoning ordinances and amendments thereto. In the process, there were technical errors in terms of the publication in a newspaper of general circulation of the amendments. A question has arisen in the town with regards to the validity of the zoning ordinance. What this bill does is to validate those meetings and the votes taken thereto. The amendment simply changes the date which was an original error in printing from '69 to '67.

Amendment adopted. Ordered to third reading.

Sen. Porter moved the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the

Senate adjourns today, it be until tomorrow at 1 o'clock with best wishes for a speedy recovery for Sen. English, Sen. Spanos and Sen. Stephen Smith.

Adopted.

LATE SESSION

Third reading and final passage

SB 129, relative to local parking ordinances.

SB 161, increasing the penalties for throwing trash on highways or highway right-of-ways.

HB 248, establishing an interim commission to study flood-plains.

SB 163, prohibiting dumping materials from out-of-state.

HB 589, legalizing certain town meetings in the Town of Windham.

Adopted.

Sen. Ferdinando moved the Senate adjourn at 2:01 o'clock.

Adopted.

*Thursday**6May71*

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

O Lord God, Thou, who art the beginning of our yesterdays, the mystery of our todays, and the hope of our tomorrows, it is with humble and thankful heart that we pause to seek Thy Presence and Thy Power. Although our days have pain as well as joy, sickness as well as health, we are thankful for the good gift of life; be with those of our number who bear their cross of suffering, comfort and strengthen them. Sustain those assembled here in continuing good health, watch over us in all that we do, keep us safe from error and faithful in our quest for truth. May our service here reflect our dedication to the high and noble ideals of our constitutional government — in the Name of Jesus Christ, our Lord. Amen.

Pledge of Allegiance was led by Sen. Downing.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 213, relative to sessions for correction of or additions to the checklist and for alterations of or additions to party registration. (Spanos of Dist. 8 — To Executive Departments, Municipal and County Governments.)

SB 214, relative to filing city charters and amendments thereto with the Secretary of State. (Leonard of Dist. 13 — To Executive Departments, Municipal and County Governments.)

SB 215, relative to regulation of shorthand court reporting. (Nixon of Dist. 9 — To Education.)

SB 216, to prohibit the operation of motorboats upon Turtle Pond in Concord. (Jacobson of Dist. 7, Smith of Dist. 15 — To Resources and Environmental Control.)

SB 217, relative to the establishment of an electric power plant and major transmission siting and construction licensing procedure. (Foley of Dist. 24 — To Public Works and Transportation.)

SB 218, relative to internships in hospitals in this state. (Spanos of Dist. 8 — To Public Health, Welfare and State Institutions.)

SB 219, relative to state employees' compensation. (Spanos of Dist. 8 — To Ways and Means and Administrative Affairs.)

SB 220, relative to the licensure and regulation of the practice of opticianry. (Bradshaw of Dist. 10 — To Public Health, Welfare and State Institutions.)

HOUSE MESSAGES INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 439, relative to extending the service fee on air carriers to all public landing areas supported, in whole or in part, by state and municipality or airport authority funds and to allocate said fees between the state and municipalities or airport authorities. (Public Works and Transportation)

HB 735, relative to unpaid rent for safe deposit boxes. (Banks, Insurance and Claims)

HB 774, relative to county bonds and notes. (Executive Departments, Municipal and County Governments)

ENROLLED BILLS REPORT

HB 248, establishing an interim commission to study flood-plains.

Sen. Ferdinando
For The Committee.

RECESS

FURTHER INTRODUCTION OF HOUSE BILL

First, second reading and referral

HB 910, relative to exchange of employees with the federal government in certain cases. (Ways and Means and Administrative Affairs)

COMMITTEE REPORTS

SB 96

relative to the interest on deposits in credit unions. Ought to pass with amendment. Sen. Ferdinando for Banks, Insurance and Claims

AMENDMENT

Amend the bill by striking everything out after section 1 and inserting the following:

2 RSA 394:42 Declaring. At the annual meeting the board of directors shall report to the members the rate of dividend paid from income which has been actually collected during the dividend period next preceding, and which remains after the deduction of all expenses, interest on deposits not exceeding five per cent per annum except that interest on deposits exceeding five per cent may be paid pursuant to the rules and regulations of the Federal Deposit Insurance Corporation pertaining to interest paid on deposits by savings banks and the amount required to be set apart as a guaranty fund, or that such dividend was paid in whole or in part from undivided earnings of preceding years, not to exceed twenty per cent thereof in any one year; provided that such earnings are a part of the surplus of the union in excess of all requirements of the guaranty fund. At such time as the National Credit Union Administration may establish rules pertaining to interest on deposits such rules would prevail for credit unions insured by the National Credit Union Administration in lieu of the rules and regulations of the Federal Deposit Insurance Corporation pertaining to interest paid on deposits by savings banks.

3 Effective Date. This act shall take effect sixty days after its passage.

Sen. MORRISSETTE: The Committee felt that this was a good bill and would help the small group of banks, especially in times of shortage of money. This was sponsored by Sen. Lamontagne and deserves the support of our colleagues. A bank in Berlin has helped to build up a large section of the city. In Manchester, we have a similar situation where a small credit union which is, in reality, a bank, has rendered a tremendous service in making it possible for a large portion of the town to receive their services plus their mortgage insurance. I checked

into the Banking Commissioner's Report and I find that it would have absolutely no affect on other major banks. I hope that you will go along with the Committee Report.

Sen. SPANOS: Sen: Morrisette, would you kindly tell us what this bill does?

Sen. MORRISSETTE: This will permit a credit union to pay 6 percent instead of 5 percent interest.

Sen. SPANOS: Is that the original bill? The amendment talks in terms of 5 percent.

Sen. MORRISSETTE: It was increased from 5 percent to 6 percent.

Sen. LAMONTAGNE: It increases the 5 percent to 6 percent to make it equal to the banks and the amendment was drafted by the Bank Commissioner so that there would be a protection for the credit unions.

Amendment adopted. Ordered to third reading.

SB 143

clarifying and making co-equal the terms, charges and deposits and shareholders and depositors under chapter 393 regulating building and loan associations. Ought to pass. Sen. Poulsen for Banks, Insurance and Claims.

Sen. POULSEN: Mr. President, SB 143 does exactly what it says it does. In the writing of this bill and in the writing of the banking law, they have used loosely the terms, "shares and deposits". Shares meaning deposits and deposits meaning shares and likewise, with shareholders and depositors. By making the two words equal, it eliminates the possibility of people thinking of shares as being stock in a company rather than deposits.

Adopted. Ordered to third reading.

HB 530

amending the liquidity provisions applicable to building and loan associations, cooperative banks or savings and loan associations. Ought to pass. Sen. Leonard for Banks, Insurance and Claims.

Sen. LEONARD: Mr. President, under the present law, a cooperative bank or a savings and loan association must keep 5 percent of their funds in bank deposits that would earn no income. The federal banks have the right to invest their money

in income investments. This bill allows them to invest their money in mortgages or government bonds or other liquid investments which would pay interest. The Banking Commissioner was present and many members of corporate banks and all were in favor of the bill.

Adopted. Ordered to third reading.

SB 14

relative to the promotion of four season recreation in northern New Hampshire. Inexpedient to legislate. Sen. Poulson for Executive.

Sen. POULSEN: Mr. President, SB 14, introduced by Sen. Lamontagne, is known as the "Four Seasons Bill". What it did, in effect, was to establish a commission and also removed an anti-gambling law from the unincorporated towns of New Hampshire. In other words, it set up a casino type gambling for the northern and eastern end of New Hampshire. The Committee has studied the bill and reports, unanimously in the Executive Session, as inexpedient to legislate.

Sen. MORRISSETTE: Mr. President, I move that SB 14 be recommitted to the Committee. I feel that this early in the session and in view of the fact that a similar bill has already been defeated, we would be rendering a great disservice to the people if we were not to study this bill further. I have a letter from Hon. Sen. Cotton whereby he expresses that we have to strongly resist new taxes and at all costs, a sales tax must be avoided. I feel inadequate testimony has been given regarding the merit of the concept of this bill. I feel that this should be under state control. Some people claim that we might be turning New Hampshire into another Las Vegas. I think there is no basis for the statement that this would attract racketeers. I feel that we should investigate this matter further.

Sen. R. SMITH: Sen. Morrisette, in your opinion, was Sen. Cotton advising this body or giving his personal opinion?

Sen. MORRISSETTE: He was definitely expressing an opinion.

Sen. LAMONTAGNE: Mr. President, I appreciate what the honorable senator from the Sixteenth District wants to do in recommitting this bill, but after talking to him, I have done some thinking. I feel that SB 14 would not achieve anything in

going back to the Committee since they have given it a great deal of consideration and time. I personally feel that this legislation could have brought \$33 million because of my study into this matter. \$16,500,000 would have gone into the General Fund and \$16,500,000 would have been divided equally among all the districts of the state and would have reduced the property tax. Many safeguards have been drafted into the bill. Larry Picket, Sam Greene and I copied the method of how the race track was enacted into law and the sweepstakes, in drafting this bill. No one can criticize the Racing Commission nor the Sweepstakes Commission and no one would criticize this commission if it was enacted into law.

I have even had some members of the FBI tell me that it was a good idea to do your gambling in the open instead of underground and behind closed doors. We see the Mayor of Boston in favor of off-track betting. From a UPI news release, eight states have bookmaking operations doing millions in business. We know that gambling is going on in New Hampshire and regardless of our laws, we are not going to stop it. We are letting revenue slip through our fingers. I am not a gambling man, but if people want to gamble, we might as well get the revenue from it. Some people call this sin money, but without it, we would lose much revenue.

I offered an amendment to extend the line from Woodsville to include Franconia Notch and North Conway into Shelburne where the Maine line is. This amendment stipulated that it had to be approved by the people of a town before any of the gambling would have been introduced. I have expanded it because there was a demand from the people who seemed to be interested because of the unemployment and store vacancies, hoping that this situation would be remedied. The unincorporated towns would gain financially the minute this SB 14 went into effect.

I hope that the honorable senator from the Sixteenth District would withdraw his motion because I think you are going to waste the Committee's time. They are overcrowded already and they already gave me the time it needed. I would like to see this acted on today.

Sen. SPANOS: I rise in opposition to the pending motion to re-commit.

May I say at the outset that I subscribe to the philosophy that, considering the rather precarious financial state of the State, that we should hesitate before we burn all our bridges behind us.

However, I am convinced that this may be a revenue raising measure and not within the province of the Senate to enact.

Also, in view of the fact that the House, yesterday, killed a similar bill rather overwhelmingly, even if it is not considered a revenue measure and we had the power to pass this law, the chances of passage in the House are about as bright as is the passage of the Lord's Prayer at a Convention of Atheists.

Sen. SNELL: Sen. Spanos, since you feel that this would have a very difficult time in the House, and I have a tendency to agree with you, do you feel that legislation concerning election officials behind the rail would, if it passed this branch, would also have that same problem in the House?

Sen. SPANOS: Most definitely.

Sen. POULSEN: I rise in opposition to the motion. I would like to thank the senator from the First District for his recognition of the fact that time was granted on the study of this bill.

Sen. SNELL: Mr. President, I rise in support of the motion to recommit to the Committee. I am sorry that Sen. Lamontagne desires the distinguished senator from the Sixteenth District to withdraw his motion and I state my reasons as such as I did in the Committee when I spoke on behalf of this piece of legislation. I stated that the House Ways and Means Committee has estimated the revenue for the next two years, 1972-73. We know the picture is not bright and the Committee sees a possible income for the State of New Hampshire that is close to \$196 million. If a head tax is re-enacted during this session, it will increase the fund to around \$198 million. I pointed out in the hearing that the tax on bear will raise \$5.6 million in the next biennium. The tax on thoroughbred and harness racing will net over \$20 million and you are all aware that the tobacco tax will net \$34.3 million and the largest tax revenue raising measure that we have in this great state — \$52 million through the sale of alcoholic beverages. This totals over \$111 million out of a total fund raising tax program of \$196 million. Our hands are tied. I hope you will consider recommitment. I agree with Sen. Spanos that we cannot produce money-raising bills,

but I also disagree with him that this is just a hopeful thought and could reach the House if they do not find additional tax revenue programs.

What is the solution? On April 8, I pointed out we must pull in our belt and must cut services in our state government. We can increase our taxes or we can face the fact that we must consider another solution. The only constructive program offered to aid those who suffer the most, under our present property tax structure for the elderly and low income families is Governor Peterson's 3 percent income tax. The possibility of the House not coming up with additional revenue source for the Senate to act on is why I am supporting the motion to recommit SB 14.

Sen. JACOBSON: Mr. President, I rise in opposition to the pending motion. I think that the Senate should understand that we held two hearings on this. At the first hearing, only three people showed up. The sponsor, a representative from Claremont and Mr. Marvell from the Christian Civic League. That was some evidence to me, at least, that there was not sufficient interest on a state-wide basis. However, there may have been some confusion at that hearing because of the title of the bill. I asked if he would like to have a second hearing. The Committee granted that opportunity and at that time, about ten to twelve people appeared. As the senator from the First District has said, he had been guaranteed a goodly group from the north to come down to support this bill and they did not show up. Those who did come down from the north opposed the bill. It was therefore the considered opinion of the Committee that there was not, among the people, after we had advertised that it was a casino gambling bill, the support so they voted it inexpedient to legislate.

Sen. MORRISSETTE: I would like to remind the senator from the First District that this bill belongs to the people and I favor the concept. Because of the way these hearings are scheduled, many people cannot attend. I am simply asking the Committee to sit on the bill awaiting to see what the House does on other revenue bills.

Sen. JACOBSON: Sen. Morrissette, are you aware of the parliamentary procedure that if the bill is inexpedient to legislate, it can be recovered if the need be there by a vote of the Senate?

Sen. MORRISSETTE: No, I was not aware of that. I withdraw my motion.

Sen. LAMONTAGNE: Mr. Chairman and members of the Committee, I would like to ask the members of the Senate to vote according to their own conscience, but I have spent four years in working this bill out.

Sen. NIXON: I move that the words, "ought to pass" be substituted for the Committee Report, "inexpedient to legislate."

Sen. FERDINANDO: One of the effective ways to stifle the underground profits that apparently are going on in New Hampshire, if there is such a thing, is to become competitive with them. For this reason, I hope that you will consider the motion.

Sen. NIXON: I would like to speak against my own motion which I made as a courtesy to Sen. Ferdinando who, as I, oftentimes gets caught up in parliamentary procedure. My feeling on this bill, and I studied this general concept thoroughly two years ago when similar bills were before the House and the Senate, is that we would be opening a door to far more evil than anyone has predicted, or now exists in New Hampshire in terms of the influence of organized crime. I have taken the trouble to look into this matter, hopefully with an objective eye, including contacting people in the law enforcement field. Even assuming the truth of the revenue predictions which are made on behalf of this legislation at this time, I feel the destructive effects on our economy, having in mind one statistic that the State of Nevada pays something like four or five times the price per capita for law enforcement than we do in New Hampshire, weighs heavier on the scales. I don't think that New Hampshire really wants to take this step, even if the predicted revenue were to come into it, as a means of raising the revenue. For that reason I would vote against the motion, "ought to pass". However, if it were a matter of recommitting it to the Committee, I think I would go along with that.

Sen. MORRISSETTE: Sen. Nixon, are you aware that the other states in that particular section of the country have the same problem as Nevada and spend approximately the same amount of money for law enforcement?

Sen. NIXON: Yes, but I think that where you have the gambling center in Nevada, it is bound to have an influence on the surrounding states in terms of the people that gather there. The point I was trying to make is that I don't think it is possible, at one and the same time, to try to preserve for our children, for ourselves, for the future inhabitants of New Hampshire, the type of state that we now love it for being in terms of the cleanliness of our government, the decency of our people, and the beauty of our scenic areas, and at the same time, try to make millions on organized gambling of the type that goes on in the Bahamas and in Nevada. It is this basic contradiction which I see that causes me to oppose legislation of this nature.

Sen. MORRISSETTE: Are you aware of the tremendous possible boom to the economy brought about by tourism from such an enterprise?

Sen. NIXON: I am aware that this claim is made, but I have two thoughts about tourism. One, yes, we should try to make as much revenue as reasonably can be made from recreational sources in our state, but a line has to be drawn somewhere. However, we don't want to become a honky-tonk state and sacrifice the beauty of our state and the ability of our own people to enjoy our state in the interests of bringing in a lot more tourists of the kind that won't do us much good — the honky-tonk tourists; and that is the type I think you will find that may be attracted by casinos and roulette wheels and that type of operation.

Sen. MORRISSETTE: Do you feel there would be a difference if the casinos were state operated?

Sen. NIXON: I agree with you on that principle, that if you are going to have wide-open gambling, it should be state operated as opposed to state licensed, as it is in Nevada. It does permit a closer degree of control.

Question — Substitute "ought to pass" for the Committee Report, "inexpedient to legislate."

Motion lost.

Question — Committee Report. "inexpedient to legislate."

Resolution adopted.

SPECIAL ORDER OF BUSINESS AT 1:01

SB 73

defining and providing for the licensing and regulation of real estate brokers and salesmen; providing for the New Hampshire Real Estate Commission defining its powers and duties; and imposing penalties for violations of this chapter. (Requested by Sen. Poulsen)

AMENDMENT

Amend sections 2 through 10 of the bill by striking out the same and inserting in place thereof the following:

2 Qualifications. Amend RSA 331-A:1-b (supp) as inserted by 1967, 329:1 and amended by 1969, 461:3 and 1970, 49:2 by striking out said section and inserting in place thereof the following: 331-A:1-b Commissioners' Qualifications. Each member of the commission shall be a citizen of the United States and a resident of the State of New Hampshire for at least six years prior to his appointment. One member shall be an attorney-at-law, and no more than two members shall be real estate brokers whose vocation shall have been that of a real estate broker. One member shall be a real estate salesman duly licensed under this chapter. One member shall be a layman.

3 Exempted Classes. Amend RSA 331-A:2 as inserted by 1959, 222:1 by striking out said section and inserting in place thereof the following: 331-A:2 Exempted Classes. The provisions of this chapter shall not apply to an owner, builder, or tenant of real estate with respect to property owned or leased by him, or to leases for a term not to exceed two years, provided the terms of the lease do not obligate the lessee to renew, or to an attorney in fact under a duly executed power of attorney authorizing the consummation of a real estate transaction, or to an attorney-at-law in the performance of his duties as an attorney, or to an auctioneer selling at public auction, or to a public official in the conduct of his official duties, or to a person while such person is acting as a receiver, trustee, administrator, executor, conservator, guardian, or fiduciary, or while acting under court order, or while acting under the authority of a will, trust instrument, or other recorded instrument containing a power of sale.

4 Applications for Licenses. Amend RSA 331-A:4 (supp) as amended by 1959, 222:1; 1961, 213:1 and 1969, 461:5 by striking out said section and inserting in place thereof the following: 331-A:4 Applications for Licenses. Applications for licenses as broker or salesman shall be made to the commission, on forms prescribed by it, stating the age, sex, domicile, and place of business of an individual applicant, the principal place of business of a partnership applicant, and the state of incorporation and principal place of business of a corporate applicant; and shall be accompanied by affidavits of three residents of the state, owners of real estate in the state, stating that the applicant or its members and officers is or are persons of good repute, trustworthy, and entitled to public confidence. A firm, partnership, or corporation shall designate in its application the individual or individuals who are to serve as brokers under regulation. Upon completion of the application, and the payment of the required fee, the commission shall issue the appropriate license. A salesman may be licensed, as such, for only a single broker at any one time, and his license shall so indicate provided, however, that such employing broker shall not be a firm, partnership, or corporation. In transacting business as a real estate salesman, no salesman shall be employed by, or accept compensation from, any person other than the broker under whom he is licensed, or the said broker's employing firm, partnership or corporation. No firm, partnership, or corporation shall be granted or allowed to hold a broker's license unless at least one member of a firm or partnership or officer of a corporation holds a license as a broker and unless every member of a firm or partnership or officer of a corporation thereof who actively participates in its business of real estate brokerage holds a license either as a broker or salesman hereunder, and no fee for the firm license of such organization shall be assessed in addition to the license fees paid by such individuals, members or officers. No license shall be issued to an unincorporated person, firm or partnership doing business under a trade name unless and until such trade name shall have been lawfully registered as provided in RSA 349. No license shall be issued to an individual broker or salesman unless he shall have attained the age of twenty-one.

5 Examination. Amend RSA 331-A:4-a (supp) as inserted by 1963, 269:2 and amended by 1967, 329:3; 1969, 461:6 and 1970, 49:3 by striking out said section and inserting in place

thereof the following: 331-A:4-a Examination. The commission is authorized to require each applicant for an original salesman's or broker's license to have satisfactorily passed a reasonable written examination as to his qualifications to act as such broker or salesman. The examination shall be in such form as may be prescribed by the commission and shall be administered by the commission which shall cause the examination to be given to applicants at least four times annually. The examination shall include business ethics, arithmetic, elementary principles of land economics and appraisal, a general knowledge of closing statements, a general knowledge of the statutes of this state relating to deeds, mortgages, contracts of sale, leases, and other related matters, and the provisions of this chapter. The examination for a broker's license shall be of more exacting nature than the examination for a salesman's license. An applicant who has failed twice in succession shall be ineligible for further examination until six months have passed. The commission is authorized to publish and distribute printed material indicating the scope of the examination and suggested study material. A fee of fifteen dollars shall be paid for each examination. No refund will be made after application has been received. The commission is authorized to expend from its receipts for examination fees the sum of five dollars per applicant taking the examination for the purpose of engaging a qualified testing service to be selected by the commission to prepare, structure, administer and conduct the examination under the direction of the commission. The commission shall notify each applicant who takes said examination whether he passed or failed within thirty days of the examination.

6 Qualifications. Amend RSA 331-A:4-c (supp) as inserted by 1965, 319:2 and amended by 1969, 461:8 and 1970, 49:4 by striking out said section and inserting in place thereof the following:

331-A:4-c Broker's and Salesman's Qualifications.

I. All applicants must be twenty-one years of age, and a resident of the state of New Hampshire at the time of filing unless filing as a nonresident under RSA 331-A:6.

II. All applicants must submit proof as may be required by the commission of the applicant's honesty, truthfulness, and good reputation, which proof shall be in such form as may be deemed advisable by the commission.

III. No application to take the examination for a broker's license shall be accepted unless the applicant shall have served at least one year as a licensed real estate salesman in this state or another state.

IV. The form and style of the examinations, as well as the preparation, grading, and administration thereof, shall be the responsibility of the commission, or its duly appointed employees or agents.

V. The commission shall require any individual, institution or organization seeking accreditation to give a real estate course to submit documents, statements and forms prior to approval. Said documents, statements and forms shall be the basis for the commission's judgment whether approval or denial of the request would be in the best interest of the general public. The commission may adopt rules and regulations governing the conduct of accredited courses which may reasonably be necessary to its granting and continuing accreditation of said courses.

7 Prohibited Conduct. Amend RSA 331-A:6-b as inserted by 1963, 269:3 and amended by 1965, 319:4; 1969, 461:15 and 16 by striking out said section and inserting in place thereof the following:

331-A:6-b Prohibited Conduct.

I. The commission shall have power to refuse a license for cause or to suspend or revoke a license in accordance with the procedure prescribed in RSA 331-A:7 where it has been obtained by false representation, or by fraudulent act or conduct, or where a licensee, in performing or attempting to perform any of the acts mentioned herein, is found guilty of:

(a) Making any substantial misrepresentation, or giving false answers in his application or violating any provisions of this chapter, or

(b) Making any false promise of a character likely to influence, persuade or induce any person to enter into any contract or agreement when he could not or did not intend to keep such promise, or

(c) Pursuing a continued and flagrant course of misrepresentation or making of false promises through salesman, other persons, or any medium of advertising, or otherwise, or

(d) Any misleading or untruthful advertising, or using any trade name or insignia of membership in any real estate association or organization of which the licensee is not a member, or

(e) Commingling the funds entrusted to him as agent or in escrow by the buyer or seller of real estate, with his own funds, or

(f) Failing to keep an escrow or trustee account of funds deposited with him relating to a real estate transaction for a period of three years, showing to whom the money belongs, date deposited, date of withdrawal, to whom paid, and such other pertinent information as the commission may require, such records to be available to the commission, or its representatives, on demand, or upon written notice given to the licensee, or

(g) Failing to preserve the records relating to any real estate transactions for three years following the consummation of such transaction, or

(h) Knowingly making, issuing, delivering or receiving contracts concerning the same parcel of real estate, one of which states the true and actual purchase price and one of which states a purchase price which is not the true and actual purchase price, or

(i) Offering, promising, allowing, giving or paying directly or indirectly any part or share of his commission or compensation arising or accruing from any real estate transaction to any person who is not a licensed broker or salesman under this chapter, in consideration of services performed or to be performed by such unlicensed person, provided, however, a licensed broker may share his commission with a nonresident broker who is unlicensed in this state, provided such nonresident broker is doing business regularly and legally within his own state, or

(j) Acting for more than one party in a transaction without the knowledge and consent in writing of all parties for whom he acts, or

(k) Placing a "for sale" or "for rent" sign on any property without the consent of the owner, or his authorized agent, or

(l) Failing to furnish a copy of any listing, sale, lease, or other contract relevant to a real estate transaction when re-

quested by any signatory thereof to all signatories thereof at the time of execution, or

(m) Accepting of a commission or any valuable consideration by a salesman for the performance of any acts specified in this chapter, from any person, except the licensed real estate broker with whom he is affiliated, or said broker's employing firm, partnership or corporation, or

(n) Failing to disclose to an owner his intention or true position if he directly or indirectly through a third party, purchases for himself or acquired or intends to acquire any interest in or any option to purchase property which has been listed with his office to sell or lease, or

(o) Being convicted in a court of competent jurisdiction of this or any other state, or federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or any similar offense or offenses, or pleading guilty or nolo contendere to any such offense or offenses, or

(p) Violating any rule or regulation promulgated by the commission in the interest of the public and consistent with the provisions of this chapter, or

(q) In the case of a broker licensee, failing to exercise adequate supervision over the activities of his licensed salesmen within the scope of this chapter, or

(r) Failing, within thirty days, to provide information requested by the commission as the result of a formal or informal complaint to the commission, which would indicate a violation of this chapter, or

(s) Soliciting, selling, or offering for sale real property by offering free lots, or conducting lotteries or contests or offering prizes for the purpose of influencing a purchaser or prospective purchaser of real property, or

(t) Paying or accepting, giving or charging any undisclosed commission, rebate, compensation or profit or expenditures for a principal, or in violation of this chapter, or

(u) Any conduct in a real estate transaction which demonstrates bad faith, dishonesty, untrustworthiness or incompetency.

8 Suspension or Revocation of License. Amend RSA 331-A:7 (supp) as inserted by 1959, 252:1 and amended by 1961, 213-2; 1969, 461:17 and 1970, 49:8 by striking out said section and inserting in place thereof the following: 331-A:7 Suspension or Revocation of License. Full power to revoke or suspend licenses granted under the provisions of this chapter shall be vested in the commission subject to the provisions of review by the superior court upon reasonable appeal as set forth in this provision. The commission may, upon complaint or upon its own motion, after reasonable notice of the charges in writing and a hearing thereon, revoke the license of any broker or salesman, or suspend such license for such period as may be just upon finding that such licensee has been in violation of RSA 331-A:6-b, or has been guilty of any unlawful, dishonest, deceitful or fraudulent conduct in connection with his business as such broker or salesman. The commission shall give the licensee at least fourteen days written notice, prior to the date or hearing, of the charges to be heard by it, and shall afford such licensee an opportunity to be heard in person or by counsel in reference thereto. The hearings on such charges shall be at such time and place as the commission shall prescribe. The commission shall have the power to subpoena and bring before it any person or any relevant records or documents in this state or to take testimony by deposition, in the same manner as is prescribed by law in judicial proceedings. Said commission shall keep a complete stenographic record of its proceedings in such cases. For this purpose the commission is authorized to employ a temporary reporter and fix his compensation, and the governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated. The commission is authorized to charge the broker or salesman a

4 Applications for Licenses. Amend RSA 331-A:4 (supp) reasonable fee for any copies of said transcript furnished him. Sheriffs and witnesses shall receive the same fees for the service of process and attendance before the commission as are paid sheriffs and witnesses in matters pending before the superior court. The determinations of the commission shall be in writing and officially signed by the chairman, or acting chairman. The original of such determinations, when so signed, shall be filed in the office of the commission and copies thereof shall be mailed to the broker or salesman, addressed to his place of business, and to the complainant, if any, within two days after filing

thereof. The suspending or revoking of a license by the commission is effective pending an appeal to the superior court. The action of the commission in revoking or suspending a license shall be subject to appeal to the superior court at the instance of the licensee, within thirty days after the filing of the commission's decision. An appeal shall suspend the commission's decision. The appeal shall be tried in the superior court de novo. The superior court may affirm, reverse, or modify the commission's decision, as justice may require. Upon due notice of revocation or suspension by the commission the licensee is required to return his license and pocket identification card within ten days to the commission. Upon request of the real estate commission any sheriff or his deputy in that state of New Hampshire is hereby authorized on behalf of the real estate commission to pick up the license and pocket identification card from any licensee whose license has been suspended, and who has not complied with the requirements of this chapter.

9 Penalties. Amend RSA 331-A:8 as inserted by 1959, 222-1 by striking out the same and inserting in place thereof the following: 331-A:8 Penalties. Any person acting as a broker or salesman with respect to two or more real estate transfers without first obtaining a current license shall be guilty of a violation and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars. Any person who violates any other provision of this chapter or the rules and regulations of the commission shall be punishable by a fine of twenty-five dollars, and upon conviction of a second or subsequent violation, the person shall be punished by a fine of not more than one hundred dollars.

Further amend the bill by renumbering sections 11, 12 and 13 to read 10, 11 and 12.

Sen. NIXON: Mr. President, SB 73 is a "simple bill." I sponsored it at the behest of the New Hampshire Real Estate Commission and without attempting, because I am not up to doing so, to go into great detail, the general purpose of the bill as originally introduced was to provide for both the benefit of the Real Estate Commission charged with regulating the business of real estate buying and selling in New Hampshire and also the people in the business and the public. More satisfactory and specific criteria as to what areas the Commission had jurisdiction, what steps it could take, what penalties and

under what conditions penalties might be imposed and things of that nature are the gist of this bill. There were twelve specific amendments proposed in the bill to existing laws on the subject which are contained in Chapter 331 — A in the *Revised Statutes Annotated of New Hampshire*. The amendments would, generally speaking, have related to the qualifications of the members of the Real Estate Commission, the types of courses that would have to be taken by persons who desired to apply for a broker's or a salesman's license, the content of the examination that they would have to pass in order to get such a license or licenses, and then specific acts of misconduct were set forth for the guidance of both the Commission and people carrying on the business of real estate which would be cause for revoking the licenses; and penalties were added for violations of the chapter, or of the laws relating to the business of real estate, or the regulations adopted by the Commission thereunder.

The Senate Judiciary Committee, after an extended open hearing on March 10, had several executive sessions and partial executive sessions on this complicated bill. The net result was a series of further amendments to the bill contained in the *Legislative Calendar* of Thursday, 29 April beginning on page 29. In its work, the Senate Judiciary Committee amended sections 2, 3, 4, 5, 6, 7, 8, and 9 of the bill which, by the way, had 11 sections in original form. The general effect of the Senate Judiciary Committee's amendments was to water down the original bill as proposed on behalf of the Real Estate Commission so as to make it easier for those who are already carrying on the business of real estate, buying and selling; to make it easier for those who desire to do so, to qualify in a sense that all they would have to do is pass the exam without having to take a course specifically accredited by this particular commission as a prerequisite to taking the exam; to open the door for more public involvement in the matter of regulating realtors in the sense that the Commission would be required to have a lay member and a member who is also a salesman in addition to the broker members and an attorney. The amendments, generally speaking, dilute the powers which would have been granted to the Commission under the original bill. Having in mind that several members have indicated that they want to ask specific questions on the bill, I think that generally states the case for SB 73 and the Committee's amendments to it, again having in

mind that the basic purpose of the bill is to provide more specific criteria for the actions of the Real Estate Commission in respect to public complaints about a realtor or a broker, and to provide more specific criteria in terms of the type of courses that must be studied in any program or for any examination; in other words, to inform people better as to what their rights are under this chapter; both members of the public, those who intend to practice as realtors, and also the Board for purposes of making decisions.

Sen. MORRISSETTE: I move that further consideration of SB 73 be indefinitely postponed. I have studied this bill and I am very offended by it and by what is going on in the real estate business. I feel that this violates the Constitution of the United States, the Robinson-Putnam Act and the Civil Rights Act. The Real Estate industry already possesses immense police power whereby over 40 percent fail to pass the examination even after taking special courses. I speak from experience. I took the course, I had 20 years of real estate experience and was quite knowledgeable in construction but I was denied taking the examination the first time. You have to be a lawyer to pass the test and it doesn't take into consideration a person's experience. There is only one good item in this bill and that is the giving away of free licenses. However, I feel the Commission should be responsible enough to be able to give a license if they feel an applicant is qualified. This bill would relieve the commissioners of responsibility and remove their authority to issue a license to a person who is really qualified. This bill prohibits a person from selling his own property in that newspapers would require you to include in your ads the name of yourself or your company and when you do so, you are violating the law. For example, your local newspaper requires that you put the name of your company and I have advertised my real estate company in violation of the law not knowing that I was in violation. This bill prohibits a person from working to encourage new industry.

I was denied the privilege, after repetitiously requesting to see my exam, I was denied the privilege of seeing it. I think this is in violation of the law and I will, when I get through with my duties here, proceed to do something about these violations.

Sen. NIXON: Are you aware that the present Commission consists of four brokers and one lawyer and if SB 73, as amended

by the Senate Judiciary Committee, passes, there will be no more than two brokers, one lawyer, one licensed salesman and one member of the public, so in a sense, the public interest will be broadened in the regulatory powers of the Commission rather than narrowed?

Sen. MORRISSETTE: Why do you need a Commission if they have no authority. The test is made by the industry.

Sen. NIXON: Are you aware of the fact that the present law does not set up and lay out on the table, so to speak, for the benefit of the people who are going to take the test, the type of courses they should emphasize in order to qualify for the test, but that SB 73 as amended by the Committee, would lay right out in the law, the courses that a person should concentrate on. So again, the benefit is to the average fellow as opposed to the insiders, he now has an opportunity to know the areas he should concentrate on before taking the exam?

Sen. MORRISSETTE: The bill does have some good items, but primarily, it is a power struggle to cut down on people coming into the industry in the brokers field.

Sen. KOROMILAS: Mr. President, I rise in opposition to the pending motion to indefinitely postpone. First, I would like to make it clear that one of the reasons I am in favor of the bill is because it has been watered down. As a member of the Committee, we did try to water down the bill as was originally sponsored by the distinguished senator from the Ninth District. I think the bill does water down the law. It gives the right to an alien to sell property. Previously, if a person was not a citizen of the U.S., he could not sell property in the State of New Hampshire. I feel this is a great step forward with respect to civil rights. Secondly, I feel also that the Board has been tapered in so far as concentrated power of realtors running the whole show. For the first time, the salesman has a right to sit on that Board and at least take care of the salesmen interests. Previously, it was made up of brokers only.

Furthermore, I think that the bill has been watered down to allow for appeals with respect to anyone who may have a problem with the Commission. Now a jury can listen to an appeal whereas before, the appeal could be through a court only. Another item is the fact that the discretionary power of the Board to grant licenses has been deleted. That is the most important feature of the bill because in the last session, the

special session, this Senate did pass a real estate bill which allowed for discretionary power on the part of the Commission to give licenses to persons who never took the course or never took a test. The reason for that particular provision was that there were situations where a person coming from another state who may have had years of experience, would have to come here and take a course in order to take the examination. This was the reason for the discretionary power on the part of the Board. Unfortunately, what happened with that power was that they did grant licenses in some areas. I think we are all aware of the fact that certain licenses were granted to people who are really politicians. In other words, they were not hardship cases. They went before the Board and asked to have a license granted to them. I think that that type of thing is reprehensive. It doesn't make good sense to grant licenses to those people who would go before it and perhaps the only qualification that they may have would be the fact that they were, at some time or other, politicians.

I toyed with the idea of introducing an amendment to this particular bill to have those licenses that were granted to those who didn't take examinations or courses, to have their licenses expired at the end of the two year period. Looking the whole thing over, it was awfully difficult to do this legally and constitutionally. However, I feel that those people who were granted licenses under the discretionary power, should resign, should give in their licenses and make that Commission of the people instead of politicians.

Sen. LEONARD: Mr. President, it seems every year the Real Estate Board comes up with a complicated bill that takes a lot of time. I think it is more empire-building than anything granted licenses under the discretionary power should resign, else. The main thing in selling real estate, in my mind, is that the salesman and brokers have good ethics and they are honest. We had real estate brokers and salesmen in this state for 50 years. To my knowledge, we had very little trouble with them. They set up a Real Estate Board and now, every year they want to tighten it up because they are in and they pull the gang plank in so nobody else can get in. It makes them feel more important; it gives them power.

I was on the Committee when we amended this bill. We spent a long time going down through each paragraph and we

amended out a lot of their restrictions that they had in because it was too much of a power grab. I am having second thoughts on this bill now. If I don't find a real need for a law, I vote against it so I am going to reverse my feeling and I am going to vote for this motion, inexpedient to legislate. I think that we have too much authority in these boards and commissions that we set up and are usually staffed by people who are in that particular business and they are jealous with their power. I don't see any real need for this and I will vote against it.

Sen. MCCARTHY: Sen. Leonard, do you think, from an historical point of view, that this might be the normal evolution of a profession?

Sen. LEONARD: I don't think so. I think that this Real Estate Board is a recent board and I think like all the other boards that we have in the state, there is a tendency to tighten the ship. I don't see any real need to do that. We forget the little guy who doesn't have the chance to go to school and our society is driving those people right out of business.

Question on indefinite postponent.

Division vote: 5 Ayes, 9 Nays, Motion lost.

Question: Adoption of amendments as offered by the Committee.

Amendment Adopted. Ordered to third reading.

HB 500

relative to the highway operation of farm vehicles. Ought to pass. Sen. Townsend for Public Works and Transportation.

Sen. TOWNSEND: Mr. President, this bill amends the bill that permits farm trucks used strictly for farm operations to travel 10 miles to 15 miles. This was amended to 20 miles in the House. The Committee recommends that this 20 mile limit be established.

Adopted. Ordered to third reading.

SB 60

relative to town libality for domestic animals harmed by dogs. Ought to pass. Sen. Leonard for Executive.

Sen. LEONARD: Mr. President, under the present law, concerning farm animals that are injured or killed by dogs, the damage is paid for by the towns or cities involved. This bill pro-

vides that, in order to get paid for damage to farm animals, they must have been properly fenced in, which tightens the law up a little bit. If the farmer has animals running at large, unprotected, he should not be reimbursed for the damage done.

Adopted. Ordered to third reading.

SB 149

relative to election procedures of the Contoocook Valley School District. Ought to pass. Sen. S. Smith for Executive.

Sen. POULSEN: The Contoocook Valley School District is allowed to vote for both school officials and town officials, as the law is now, on separate ballot in the same election. This bill would enable them to have both names on the same ballot to save the separate balloting.

Adopted. Ordered to third reading.

SB 103

authorizing the State of New Hampshire to acquire and dispose of industrial facilities. Ought to pass with amendment. S. Smith for Executive.

AMENDMENT

Amend RSA 162-E as inserted by section 1 of the bill by striking out section 162-E:13 and renumbering section 162-E:14 to read 162-E:13.

Sen. POULSEN: The amendment appears in the *Calendar* on page 36. All it does is take out one paragraph in the bill that made the bonds issued by the industrial development authority be acceptable to banks. This clears up a legal matter and we recommend the amendment.

Amendment adopted. Ordered to third reading.

SB 133

relative to the Uniform Reciprocal Enforcement of Support Act. Ought to pass. Sen. Koromilas for Judiciary.

Sen. KOROMILAS: Mr. President, SB 133 has to do with the Uniform Reciprocal Enforcement of Support Act. This pertains to situations where a husband, living in New Hampshire, is ordered to pay the terms of support for his wife and children if he goes to another state. The question is how does this state require this man or how does it get him to pay the support for his family here in New Hampshire. SB 133 does change the

Uniform Reciprocal Enforcement at the present time. This bill came in the last session and went to the Judicial Council. One of the things it does is to expand the definition of state. Under the new definition, any person that goes into Canada or Mexico, assuming that they had a similar agreement, the wife could get after the husband.

Secondly, under the present law, if a person absconds to another state, he cannot be required to pay arrearage. In other words, if he has not been paying, under the present law, the court, in the other jurisdiction, can only order him to pay currently. If a person leaves, he doesn't have to pay arrearage in that other state. This bill would authorize the wife and the other court to obtain arrearage. That is the fundamental change.

Furthermore, the present bill does change the present law insofar as it mentions the county attorney as the person who should bring the action for the wife in this particular state. Another change is similar except that it gives the authority to the Attorney General in the event that the county attorney did not want to proceed to obtain the monies in the other jurisdiction.

Also, another good change, at the present time, the person who brings the action has to pay the cost. This bill provides that the person who is in the other state can be ordered by the other state to pay the cost of the action.

Furthermore, at the present time if a person in another jurisdiction is brought to court in that other state and he moves to another state to avoid the first state, the papers, under the present law, would have to come back to New Hampshire and they would have to start all over again. This bill provides that a person who has absconded from the second state, going to a third state, the papers could be initiated and transferred over to the third state so you wouldn't have to start the proceedings all over again.

Finally, two reasons why this was a good bill was first, it does tighten the areas that I have mentioned. Secondly, it makes it uniform.

Adopted. Ordered to third reading.

HB 482

relative to bail commissioners. Ought to pass. Sen. Nixon for Judiciary.

Sen. NIXON: Mr. President, HB 482 has to do with the amount of compensation paid to bail commissioners. At the present time, a bail commissioner is paid \$2.00 if he is called to the police station and performs his function during the daylight hours from 9-5 P.M.; \$3.00 if it is between the hours of 5 P.M. and 9 A.M. This bill would increase the compensation to the commissioner to \$4.00 during the day and \$6.00 at nighttime. There is no appropriation to the bill, no burden to the taxpayer since the fee is paid by the person who asks for bail to set. These bail commissioners are usually fellows who have other jobs during the daytime and are appointed by their respective courts which have jurisdiction of the offenses in question. The Committee felt that the bill had sufficient merit to warrant its passage. There was no opposition to the bill.

Sen. SNELL: Sen. Nixon, what type of qualification do the bail commissioners need?

Sen. NIXON: To my knowledge, there are no statutory qualifications. Usually a judge is fairly solicitous in the quality and caliber of the men he wants to serve as commissioners.

Sen. KOROMILAS: Mr. President, I rise in opposition to the Committee Report. I feel that in the present day, as the distinguished senator from the Fourth District indicated, there is no expertise required to be a bail commissioner. Obviously, a commissioner is appointed on the basis of knowing the right people, in some instances, and what this bill would do is to increase his overall salary for the year. I am fully aware that this is not a burden to the city or town or state. However, with the Supreme Court decisions that have been coming down, I know \$6.00 does not break anyone but at the same time, I feel that as we add on to any type of fees, this goes contrary to the spirit of the Supreme Court decision that said that if you don't have enough money, it is no reason why you should go to jail. I know this is not exactly the same point, but what I am saying is that the person that has the money can get bail and doesn't have to go to jail.

Roll call requested by Sen. Nixon.

Ayes: Sens. Lamontagne, Nixon, Leonard, Ferdinando, McCarthy, Provost, Downing.

Nays: Poulsen, Snell, Spanos, Morrissette, Brown, Koromilas.

Result: 7 Yeas, 6 Nays.

Adopted. Ordered to third reading.

SB 165

relative to recreational roads. Ought to pass with amendment. Sen. Downing for Public Works and Transportation.

AMENDMENT

Amend the bill by striking out section 1 thereof

Further amend the bill by renumbering sections 2 and 3 to read 1 and 2 respectively.

Sen. DOWNING: Mr. President, SB 165 as amended will permit the Commissioner of the Department of Resources and Economic Development to make reasonable regulations for the control of vehicular traffic on those sections of Class III highways which are located within the state parks and reservations by means of personnel signs and temporary barricades. They are not able to do this now. They have a real problem with people parking in the road before the parking lots are even filled up. The only thing this bill will do, as amended, is to give the commissioner the authority to put up barricades within the state park areas.

Amendment adopted. Ordered to third reading.

HB 577

relative to reporting of fires to the state fire marshal's office. Ought to pass. Sen. Poulsen for Public Works and Transportation.

Sen. POULSEN: Mr. President, HB 577 was amended in the House in the amount that was changed from \$3,000 to \$1,500. The bill itself has to do with reporting fires to the state fire marshal's office. Towns have to report all fires and until this bill, all fires of over \$100 value to the state fire marshal's office. Where most towns are under the jurisdiction of a fire chief who isn't paid or if he is paid, it is very little, most of these reports never get in. This bill will get rid of all the small fires and make the breaking point \$1500 so that no fires under that, unless incendiary, will have to be reported in.

Adopted. Ordered to third reading.

ANNOUNCEMENTS

Sen. NIXON: Mr. President, in this morning's WKXL news, there was a reference to the ratification of the amendment

to the Federal Constitution to lower the voting age to eighteen and in it, it says that "Judiciary Chairman, David Nixon of New Boston said the House-passed measure would be reported out of this committee for action that day." — referring to next Tuesday when the bill is on for hearing by the Senate Judiciary Committee. I don't think I made that statement but more important than that, if I did, I was wrong because the Judiciary Committee and not me decides when bills will be reported out of the Judiciary Committee so all I can tell you is that the ratification of the Federal Constitution regarding lowering the voting age will be heard by the Committee next Tuesday and it will be reported out of the Committee when the Committee votes to do so.

Sen. Nixon moved that the Senate do now adjourn from the Early Session and that on third reading all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until Tuesday, next, at 1 o'clock in honor of the birthday of former president, Harry S Truman who is some 80 plus years old and also in honor of another indomitable Democrat and political fighter, the honorable Harry Spanos who also observes his birthday today, but is somewhat younger.

Adopted.

LATE SESSION

Third reading and final passage

SB 96, relative to the interest on deposits in credit unions.

SB 73, defining and providing for the licensing and regulation of real estate brokers and salesmen; providing for the New Hampshire Real Estate Commission defining its powers and duties; and imposing penalties for violations of this chapter.

Sen. Nixon moved reconsideration. Motion lost.

SB 143, clarifying and making co-equal the terms, shares and deposits and shareholders and depositors under chapter 393 regulating building and loan associations.

HB 530, amending the liquidity provisions applicable to building and loan associations, cooperative banks or savings and loan associations.

HB 500, relative to the highway operation of farm vehicles.

SB 60, relative to town liability for domestic animals harmed by dogs.

SB 149, relative to election procedures of the Contoocook Valley School District.

SB 103, authorizing the state of New Hampshire to acquire and dispose of industrial facilities.

SB 133, relative to the Uniform Reciprocal Enforcement of Support Act.

HB 482, relative to bail commissioners.

SB 165, relative to recreational roads.

HB 577, relative to reporting of fires to the state fire marshal's office.

Adopted.

Sen. Foley moved the Senate adjourn at 3:50 P.M.

Adopted.

Tuesday
11 May 71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

ETERNAL GOD, dependable Creator of the universe and Sustainer of all that is good in Your sight — Open our minds to the call of love, that we may measure our attitudes and response by this standard; Open our minds to the call of truth, that we may measure our actions by Your standard of confidence and trust; Open our minds to the call of justice, that we may draw back the curtains of life to reveal righteousness and honor, ever praising You, O GOD, for Your inspiration and concern, for Your willingness to respond to our every call. Amen.

Pledge of Allegiance was led by Sen. English.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 221, amending the charter of the City of Nashua to provide for the appointment of library trustees by the mayor subject to approval by the Board of Aldermen. (Downing of Dist. 22 — To Executive Departments, Municipal and County Governments.)

SB 222, clarifying the law concerning the merger of insurance companies. (Nixon of Dist. 9 — To Banks, Insurance and Claims.)

HOUSE MESSAGES

HOUSE CONCURRENCE ON HOUSE BILL
WITH AMENDMENT

HB 589, legalizing certain town meetings in the Town of Windham.

HOUSE ADOPTION OF ENROLLED BILLS
AMENDMENT

HB 265, prohibiting the use of motorboats on Mirror Lake in Woodstock.

ENROLLED BILLS REPORT

HB 482, relative to bail commissioners.

HB 500, relative to the highway operation of farm vehicles.

HB 530, amending the liquidity provisions applicable to building and loan associations, cooperative banks or savings and loan associations.

HB 577, relative to reporting of fires to the state fire marshal's office.

Sen. Ferdinando
For The Committee

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HJR 48, establishing a commission to establish qualifications for real estate appraisers. (Executive Departments, Municipal and County Governments)

HB 341, to prohibit cancellation of individual accident and health insurance policies due to changes in the physical condition of the insured. (Banks, Insurance and Claims)

HB 544, to provide for review of area school plan and withdrawal after the third anniversary. (Education)

HB 546, to define, control and prohibit the littering of public or private property. (Resources and Environmental Control)

HB 574, to authorize the establishment of the Dover Industrial Development Authority. (Executive Departments, Municipal and County Governments)

HB 598, relative to the employment of youths. (Ways and Means and Administrative Affairs)

HB 655, relative to renewal of automobile insurance policies. (Banks, Insurance and Claims)

HB 730, relative to changing unsecured loan limitations of building and loan associations, cooperative banks or savings and loan associations. (Banks, Insurance and Claims)

HB 737, permitting nonprofit colleges, nonprofit trusts and funds to be participating lenders. (Education)

HB 739, clarifying the law relative to the board of trustees of New Hampshire colleges and equalizing the expiration dates of appointed university trustees. (Education)

HB 741, relative to limitation on appropriations under the Municipal Budget Law. (Executive Departments, Municipal and County Governments)

HB 751, clarifying the law relative to the board of trustees of New Hampshire colleges and providing for a student member thereof. (Education)

HB 822, relative to the enforcement of regulations of the Director, Division of Welfare. (Public Health, Welfare and State Institutions)

SENATE NON-CONCURRENCE ON HOUSE AMENDMENT TO

SB 58, to prohibit any special justice or associate justice of a district or municipal court from practicing law in any district or municipal court.

(See HJ of May 6, 1971 P. 1043, for amendment)

Sen. Nixon moved non-concurrence on House amendment and requested a Committee of Conference.

Adopted.

The President appointed as conferees on the part of the Senate, Sens. Koromilas and Leonard.

Sen. POULSEN: Mr. President, I move that the order whereby SB 195 and HB 586 were referred to the Committee on Public Works and Transportation be vacated and that those bills be referred to the Committee on Judiciary.

Sen. NIXON: On behalf of the Committee, I reluctantly concur with the motion and will tackle these bills with a few others we have.

Adopted.

COMMITTEE REPORTS

HB 32

providing for county contributions to tuition paid for the education of handicapped children. Ought to pass with amendment. Sen. Poulsen for Executive.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

providing for county contributions to tuition paid for education of handicapped children in Cheshire county.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Cheshire County. Amend RSA 186-A:8 (supp) as inserted by 1965, 378:1 and amended by 1967, 351:1 and 1969, 470:4 by striking out said section and inserting in place thereof the following: 186-A:8 Tuition of Handicapped Children. Whenever any handicapped child shall attend, with the approval of the State Board of Education, any public or private school, situated within or outside of this state, which offers special instruction for the training or education of handicapped children and which has been approved for such training by the state board of

education, the school district where such handicapped child resides is hereby authorized and empowered and may appropriate and pay a portion of the cost of such education in the manner and up to the amounts as provided by RSA 193:4 and 194:27, provided that in Cheshire county, upon request of such a school district, and upon approval by the county convention, the county may raise and appropriate funds to pay a portion of such costs for special education under this section. The State Board of Education shall assign pupils to approved schools for handicapped children. Schooling for deaf children may commence at the age of four. The school district in which each such pupil resides shall be liable for tuition of said child in the same manner and amount as specified in RSA 193:4 and 194:27. A school district may pay tuition at a rate higher than the amount specified in RSA 193:4 and 194:27, when in the judgment of the school board the circumstances warrant it.

2 Effective Date. This act shall take effect upon its passage.

Sen. POULSEN: Mr. President, the amendment on this bill has to do with Cheshire County where the problem originated. The amendment merely limits the bill to action in Cheshire County. The bill itself gives the county the ability to help pay for further schooling for handicapped children and the amendment only limits it to the action in Cheshire County.

Amendment adopted. Ordered to third reading.

SB 138

to preserve the scenic beauty of town roads. Ought to pass with amendment. Sen. Nixon for Resources and Environmental Control.

Sen. NIXON: Mr. President, the amendments of the Committee are set forth beginning on page 31 of today's *Calendar*. Very briefly, there are a couple of printing errors for which I will take responsibility because I was supposed to transmit the amendments to the printer's office. On page 31, the second paragraph, third line, it says, "or paying work." It should read, "or paving work." On page 32, top paragraph, second line, it says, "of said section is ordered." It should read, "of said section; and the person or persons." In the fourth line of that same paragraph, last word, "taxation" should be "taxable."

Mr. President, SB 138 was originally designated as an act relative to scenic roads, and the amendment designates as pro-

viding for the designation of scenic roads and relative to town road aid, represents a small attempt to preserve, for those who enjoy New Hampshire as it has been in the past, the roadways, particularly dirt roadways, but also paved roadways in towns, forest areas, woodlands and the like in terms of their beauty and their attractiveness, their scenic value and their safety features because, I think you can all agree with the generalization that the major part of our serious accidents occur on high-speed highways and not on back roads and towns.

SB 138 as amended by your Committee would provide for the designation of roads in towns or cities on recommendation of the planning board, conservation commission or historical commission as scenic roads by vote of the town or provision of the governing body as in the case of the city. Upon a road being designated as a scenic road, that road, if repaired or maintained, regardless of the source of funds, would not also involve the destruction and cutting down of shade trees or the destruction and removal of stone walls without the consent in advance of the planning board, if any, and also the consent in advance of the abutting owner with respect to his own land and the unimproved portion of the right-of-way running along his land and between his land and the traveled part of the road. It also provides penalties, and remedies to the land owner including injunction proceedings available to the planning board or the land owner to prohibit the destruction of trees and walls in this respect.

The second part of the bill as amended would provide for a clarification of the responsibility of town road aid money available to towns from the State Highway Department. At the present time, the hearing disclosed, although many suspected it before the hearing on this bill, there is some question or some ambiguity as to who has the final say in determining how town road aid money can be spent. This is tax money, gasoline tax money, which goes to the state and then is reapportioned to the towns for use in improving town Class IV or V highways. In the case of many towns, the testimony was that people were told when they objected to stone walls being torn down and old trees being cut down in order to make right-of-ways that the state requires it. The testimony at the hearing seemed to be that the state does not set these specifications — they are set locally by the selectmen. This confusion exists. Therefore, the second part

of this bill purports to definitely state that the local selectmen or governing body, as in the case of the city, have the final say as to whether improvements to town roads involving town road monies will require specific writs, will involve paving, will involve the destruction of stone walls or trees and the like as opposed to somebody from the state having that final say. The idea is that the selectmen are more locally oriented, more subject to what the people in the town really desire with respect to road improvement and the manner in which it is to be done, than is an engineer from the Highway Department. It does not mean to say that the selectmen have more wisdom, but it does try to translate into the public process, to a greater degree than is now apparently possible, the desires of the people in the town whose roads are being improved as to how the money is to be spent. It does provide that the selectmen do have an obligation to make sure, in the alteration and improvement of town roads, that the roads are wide enough for the passage of bus transportation of school pupils.

In essence, the bill attempts to provide a means whereby local citizens can have a greater degree of say and control as to how town road aid, which is actually local tax money, is to be utilized in connection with the improvement of local roads — to put the control back in the local area to a greater degree than now exists.

Sen. POULSEN: Mr. President, I move that SB 138 be made a Special Order of Business for Tuesday, May 18 at 1:01. I am a selectman and also a member of a planning board and there are many things that this bill does that I don't think fall into the proper jurisdiction of either selectmen or members of the planning board or members of the historical commission. I believe there are state matters that are better done by state engineers and for that reason, I move that this be given a chance to be studied.

Sen. NIXON: I rise in opposition to the motion, Mr. President. Sen. Poulsen had the courtesy, which I appreciate, of telling me in advance that he had this motion in mind and I then asked of him the opportunity to speak my piece on behalf of the bill in the hopes I could convince him, but which apparently I have not done so.

In connection with the drafting, in original and amended

form, of this bill, I took great pains to see that the Department of Public Works and Highways had advance copies, was aware of what I had in mind; and I was aware of the fact that the Department opposed the concept of the bill, does not like the concept that TRA money should be expended in accordance with the discretion of local officials as opposed to state highway engineers. This concept will never be satisfactory, I don't think, to the Department, in its wisdom. I attempted to come up with an amendment which I thought would be satisfactory to the Department, represented by Mr. Avery, who did an able job in testifying in opposition to the bill at the hearing, but apparently, I have not been successful.

I do not think that anything would be gained by delaying consideration of this bill, having in mind that if this body passes this bill in amended form, it then must endure the hearing and amendment process in the House, and the Department will have further opportunity to make its position known. But, the essential issue will not change, no matter whether we postpone it to the 18th or to the last day of June. The issue to be decided with this bill is, are town roads, the back roads, going to be improved in accordance with the judgment and discretion of the local selectmen as influenced by the local citizens, or on the basis of specifications laid down essentially in Concord, or at least represented to be laid down in Concord. I think that issue is crystal clear cut and really doesn't warrant or merit any further delay and I frankly believe that I doubt any senator's mind will be changed by any delay; and I would like to see this fact the issue today, with due respect to whatever tradition may exist of always honoring a motion to make a bill a Special Order at a later time.

Sen. POULSEN: Sen. Nixon, do you object to the concept of scenic roads being the town's own business — let them have scenic roads but likewise, let the TRA roads be separate. In other words, do you object to the concept of not mixing up TRA money on scenic roads?

Sen. NIXON: Yes. I think the concept of the bill which involves TRA money being expended in the judgment, solely in control with the advice and cooperation of the commissioner, the judgment, solely in control of the selectmen is the guts of the bill, because it is TRA money which, for the most part, goes in to the improvement of town roads or their reconstruction or their paving. If you take out of the bill altogether

the involvement of TRA money or the obligation that TRA money be expended in accordance with local judgment, then you have, in effect, killed the bill and defeated the concept of preserving local roads when local judgment decides that they should be preserved and improving local roads when local judgment decides that they should be improved.

TRA involvement is the crux of the bill and that is the real crux of the Department of Public Works and Highways' opposition to the bill — they want the state to retain what I believe, now statutorily, is complete control over the disposition of TRA money. The people in support of the bill want to see that control, having in mind that it is the people's money, by the people directly affected.

Sen. POULSEN: Do you not believe that the people who work all year round, all their lives on highways are better qualified to judge the width of a road, the amount of ditch, the size of a culvert than selectmen who are voted in for a possible three year term, never to be repeated?

Sen. NIXON: Well, I come from a small town and nobody is going to get me to say that the selectmen are not almost the epitome of wisdom of any subject. On the other hand, I think the point can validly be made that a full-time state employee with expertise in the field of highway development and construction is perhaps influenced by national criteria on what are advisable and recommended road structures, widths, the cutting of corners, the removal of walls and trees; but a selectmen who has grown up in a town, as most of them have, or who has been in office for at least three years, develops a wisdom through his experience and his contacts with people and his use of the roads to the extent that perhaps, in the case of a particular town, he has more expertise, taking into consideration *all* the factors — the beauty of the town, the safety of the school children, the abutting owners' wishes, than might be had by the so-called "expert."

Sen. MORRISSETTE: Sen. Poulsen, don't you feel, in your experience, that the elimination of curves is very expensive and that it would help towns in not having to spend the money just for that but also for road improvement?

Sen. POULSEN: I have had much to do with TRA crews and I find that they are very practical. They will not fight a ledge if there is any way out of it.

Sen. ENGLISH: Mr. President, this matter is one of considerable importance in the district that I represent. I have heard from a great many people about it. I think the amendments take care of the problem as seen at this stage in the passage of this legislation. I think that Sen. Poulsen realizes that this bill will go to the House and will get another hearing and if there are some problems, they will be revised there. I want to emphasize that this is thought to be of great importance in my district.

Sen. DOWNING: Mr. President, I rise in support of the motion. As a member of the Public Works Committee, I recognize that this is a subject of TRA funds that would come under that Committee but it hasn't. I am not sure I fully appreciate all the ramifications of the bill and I would like the opportunity to study it further also.

Sen. LAMONTAGNE: Mr. President, I rise in support of the motion. In order to be honest with the Senate, I was the one who suggested that Sen. Poulsen make it a Special Order. I did not have a chance to look this matter over carefully.

Question to make SB 138 a Special Order of Business.
Adopted.

SB 112

relative to fingerprinting all state employees. Ought to pass with amendment. Sen. Lamontagne for Judiciary.

AMENDMENT

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 New Chapter. Amend RSA by inserting after chapter 98-D the following new chapter:

Chapter 98-E Requirements of State Employment

98-E:1 State Employees, Fingerprinting. Any person who is employed after January 1, 1972 by the state shall within fourteen days from the date of employment, report to any state police headquarters in the state for the purpose of being fingerprinted. Any person who fails to report for fingerprinting as

provided for by this section shall be subject to immediate dismissal from state employment.

98-E:2 — By State Police. The state police shall fingerprint or arrange to have fingerprinted with local authorities any state employee reporting for said purpose in accordance with RSA 98-E:1. A record of fingerprints taken in accordance with this section shall be forwarded to state police headquarters in Concord.

Further amend the bill by striking out section 2 and inserting in place thereof the following:

2 Persons Currently Employed. Any person who, on the date of passage of this act, is employed by the state shall report to a state police headquarters before January 1, 1972 for the purpose of being fingerprinted and the Division of State Police shall fingerprint persons reporting in compliance with the provisions of this act. Any person who has not complied with the provisions of this section by January 1, 1972 shall be subject to immediate dismissal from state employment.

Sen. LAMONTAGNE: Mr. President and members of the Senate, SB 112 has been reported ought to pass with amendment. The persons who appeared in favor of the bill were myself as sponsor and Col. Regan of the State Police. This bill would require fingerprinting all state employees to provide for a safety measure. I urge your passage.

Sen. SPANOS: Would you care to elaborate on what you mean by this being a safety measure?

Sen. LAMONTAGNE: The reason for it was that 15 years ago, we had one of our employees at the State Hospital who had a false social security number and false name. The FBI was looking for him and discovered him here. With all the troubles we are having throughout the country and the bombings in Washington, and with discussions with Col. Regan and other notable gentlemen, I felt that this bill was worthy. Unless a person has something to worry about, I don't see why anyone should object. If a person refuses to get fingerprinted, he will be dismissed from state employment after 14 days. The State Police would have these prints on file for security. State Police are now fingerprinted so I don't see why our other employees should not also be fingerprinted. This does not call for any ap-

propriation. Col. Regan says he can take care of this with his department.

Sen. SPANOS: It is my understanding that the last incident of some possible misdoing occurred 15 years ago?

Sen. LAMONTAGNE: Yes, but what has brought me to introduce this bill is due to the nation-wide problems.

Sen. KOROMILAS: Sen. Lamontagne, do you think that this bill should be expanded to include Legislators to be fingerprinted as well?

Sen. LAMONTAGNE: I feel that the Legislators are people who have been elected by local people who know their background. I don't think that would be necessary.

Sen. R. SMITH: Do you feel that department heads will cooperate so that the time involved will not be at the individual's loss?

Sen. LAMONTAGNE: This can be easily done by the department heads and easily scheduled with Col. Regan.

Sen. R. SMITH: Is this on the individual's own time or on the department's time?

Sen. LAMONTAGNE: I would say that in the case of present employees, it would be on the department's time but any new employees would have to get it done on their own time.

Sen. MORRISSETTE: Sen. Lamontagne, what happens after they fingerprint the person — do they check the person out?

Sen. LAMONTAGNE: All of these prints will be submitted to the State Police and I am sure they will be checked out.

Sen. KOROMILAS: Do I understand that if a person is on the state roll and refuses to have his prints taken by January 1972, he shall be subject to immediate dismissal from state employment?

Sen. LAMONTAGNE: Yes.

Sen. KOROMILAS: What happens to these prints after he leaves the service of the state?

Sen. LAMONTAGNE: They will remain on file.

Sen. NIXON: Mr. President, I respectfully move that further consideration of SB 112 be indefinitely postponed. I have wrestled with this particular bill and the considerations affecting it since it was first introduced, heard and most particularly, in the last few days. I do not see any degree of criminal activity, past or present, on the part of state employees which would justify requiring them to submit to the type of police state procedure which is envisioned in this bill.

It seems to me that there is nothing more discouraging in terms of the prospect of attracting people to be employed by the State of New Hampshire than to have them know that they have got to line up like common criminal suspects in connection with their applications, and be fingerprinted. I have had experience, both personal and as counsel, in the fingerprinting process and with due respect to the distinguished sponsor's opinion, I believe it is a demeaning process. Further than that, I do not believe that it is necessary, on the evidence that I have heard, that we adopt this particular technique at this particular time as a means of insuring that people of good moral and civil character become employees. This idea is so distasteful to me that I cannot, in good conscience, support this bill.

Sen. LAMONTAGNE: I rise in opposition to this motion because I personally feel that there is no harm in having all of our employees fingerprinted. There is no harm if a person has done nothing wrong. Anyone can get a social security number by using the name John Doe, therefore, there is no security.

Sen. FERDINANDO: Sen. Nixon, I assume SB 112 had a hearing. If some of the members were in opposition to the bill, why was the recommendation "ought to pass with amendment?"

Sen. NIXON: I believe I am the only one who has formally spoken in opposition.

Sen. MORRISSETTE: I rise in opposition to indefinitely postpone. I feel we are always tying our law enforcement officials' hands behind their backs. I can't think of one person who would object to being fingerprinted. I encourage anything that might expose people who are out to hurt our state. I feel this bill will encourage loyalty.

Sen. NIXON: Sen. Morrissette, it has been determined by many extreme ideologies, Communism if you will, that an even

more effective way of insuring against disloyalty on the part of state and government officials is to create a situation where neighbors and family members are obliged to spy on each other and report periodically to designated area leaders. My question to you is if we are really so concerned about disloyalty, treason, and criminal conduct on the part of our employees, would it not be more logical to pass a law which would oblige state employees to keep an eye on certain designated other state employees and make regular reports on their activities so we would know what these people are doing?

Sen. MORRISSETTE: I don't think that is common sense, but I think this bill is common sense.

Sen. NIXON: Would you agree with me then that it is probably a matter of drawing the line — how far do you go based on the evidence you have before you as to how serious the problem is?

Sen. MORRISSETTE: It makes a little sense.

Sen. SPANOS: I rise in support of the motion to indefinitely postpone for two reasons:

First, we are without justifiable cause in singling out a segment of our state population (our state employees) who are and have already been censured by the way the legislature has treated them in the past insofar as wages are concerned. This is a further slap-in-the-face.

Secondly and most of all, I am deeply disturbed by the growing feeling prevalent in the land. Which, in the name of "law and order" — "it will do no harm" fosters and gives impetus to the creation of a police state. George Orwell's *1984* is closing in upon us — and the long arms of government will get longer unless those of us who oppose the deprivation of our rights of privacy stand up and resist these encroachments.

If we do not now make a firm stand, we will each day begin to die as free men.

I agree with Sen. Nixon that we are closing in on the philosophy of the "Big Brother."

Sen. KOROMILAS: Mr. President, I rise in support of the pending motion to indefinitely postpone SB 112. I did not attend the hearing for business reasons. I oppose this bill because

I feel that what we are trying to set up here today is to have the State Police go through each and every fingerprint. We don't have any security office as exists on the federal level. I am aware of the fact that every person who is employed on the federal level has their fingerprints taken but I think that has to do with the national security and that is why prints are taken. The only argument here today with respect to fingerprinting state employees is the safety measure. I have heard of no rumbling or particular situation where a department is filled with criminals. A stenographer would have to be fingerprinted because she types. I just cannot understand the need and I feel that no need has been established for this bill and that is why I oppose it.

Sen. LEONARD: Mr. President, some of the arguments given today are based on the fact that we are establishing a precedent here. We are not doing that. I think that state and federal governments have the duty to protect the citizens. I don't think we are taking away anyone's right by having them fingerprinted. There was evidence at the hearing that at one time there was an escaped murderer working at the State Hospital. I think that is bad publicity for the state and this is just a method to assure our people that we have good people working here. I have no reservations about this bill. I think it is a good bill and there is no reason in the world why we shouldn't pass it. There are people that are concerned over these things, but I would like to point out that the trend in this country is to make everything permissive and free and in my opinion, if we continually go along that way, we are just going to decay.

Sen. NIXON: Sen. Leonard, do you really feel that there has been sufficient evidence produced of criminality on the part of our state employees to pass a law which would require the Governor of the state, the Chief Justice of the Supreme Court, the President of the Senate, the Chaplain of the Legislature among other people, plus the ladies who work in the libraries, to line up and be fingerprinted?

Sen. LEONARD: I don't think they have to line up. If they are working here, they have six or eight months to have their prints taken.

Sen. NIXON: Do you think there has been sufficient evidence of criminality or treason or disloyalty by our employees that people of this caliber without exception should be finger-

printed as a condition of their continuing in our employment?

Sen. LEONARD: At the hearing, there was not sufficient evidence, as you mentioned. However, we don't know who is working for the state. If we take prints and check them, we might find a lot of people who we don't want.

Sen. SPANOS: There has been testimony both from Sen. Lamontagne and from you relative to the finding of a murderer working for the state. Where did they find him and what was he doing?

Sen. LEONARD: The evidence indicated that he was working at the State Hospital.

Sen. SPANOS: Would the fact that he was in the State Hospital be so disruptive that it would require checking up and fingerprinting?

Sen. LEONARD: I think we are arguing about two different things. This is a well established procedure that has been occurring in the federal government for decades. I think this is a good procedure.

Sen. KOROMILAS: Sen. Leonard, I think you are aware that Supreme Court judges and Superior Court judges have tenure to 70. Has any thought been given with respect to a person who is in the Judiciary who refuses to take fingerprints (and I am not saying that they would refuse) that their dismissal would take place?

Sen. LEONARD: I cannot conceive of a judge refusing to have his prints taken, but if he did, he would have a problem.

Sen. GARDNER: Mr. President, I cannot see why anyone would refuse to be fingerprinted, regardless of where they are working and I can see maybe another means of identification other than the area of criminology.

Sen. MCCARTHY: Mr. President, I rise in favor of the motion to indefinitely postpone. I have listened to the testimony and I cannot see any real need for this bill. You are going back 15 years. You are isolating one group of employees who have already been getting enough abuse just because we have them more or less right here and can do with them what we want.

Question on indefinite postponement.

Sen. Nixon requested a roll call, seconded by Sen. Spanos.

Yeas: Sens. Snell, Spanos, Nixon, R. Smith, McCarthy, Pro-vost, Brown, Koromilas, Foley.

Nays: Sens. Lamontagne, Poulsen, Townsend, Gardner, English, Porter, Leonard, Ferdinando, Morrissette, Downing, Tufts.

Yeas: 9 Nays: 11.

Motion lost.

Question on adoption of amendment.

Amendment Adopted. Ordered to third reading.

SB 151

relative to reimbursement for damages caused by vandalism. Ought to pass. Sen. Leonard for Judiciary.

Sen. LEONARD: Mr. President, this bill was endorsed by Sen. Ferdinando. What it does is to add one section onto RSA 572 which provides that when a person trespasses on land, he is liable for the damage he does to the property. By the Chapter, he is liable for a fine, but in addition to the fine, he must also pay for the damage to the property.

Sen. FERDINANDO: Mr. President, I introduced this bill because I am concerned with the rising rate of vandalism in this state. This bill will be a strong deterrent to this rapid rise. The intent of this bill is to compel the court not to slap someone on the wrist with a \$5 fine if they created \$200 worth of damages. These people must also pay the damage. I feel that this will also reduce tax rates in the state for insurance.

Adopted. Ordered to third reading.

SUSPENSION OF THE RULES

Sen. TUFTS: Mr. President, I move that the rules of the Senate be so far suspended as to allow for the introduction of a Committee Report without Senate hearing and without proper notice in the *Journal*.

Mr. President, this was a matter which was brought to the attention of the Senate Ways and Means Committee today, having been read into the House last Thursday. It

seems that the Governor's Office, in employing these people who are lent to us, has discovered that even if they have a federal man working for us whose salary comes 100 percent from the federal government, the Attorney General has advised the Governor's Office that they cannot pay this man because we have not yet signed the contract and the Governor's Office and the State of New Hampshire is not yet authorized to sign this contract. They would like to have this legislation approved if the Senate sees fit so that they may sign a contract with the federal government so that the federal government will pay the salary of this man who is advising our state on matters.

These experts who are lent to us by the federal government may work for our state for a period of possibly two years and they may be extended but not more than four years.

Sen. KOROMILAS: Who appoints these federal people to the state jobs?

Sen. TUFTS: As I understand it, the Governor's Office asks the federal government for an advisor and we then engage one through negotiation.

Adopted.

HB 910

relative to exchange of employees with the federal government in certain cases. Ought to pass. Sen. Tufts for Ways and Means and Administrative Affairs.

Sen. TUFTS: There was a hearing held by the House Committee on this matter and a senator present today attended that hearing and is available to speak.

Sen. BROWN: I did attend the hearing. Mr. Lamprey and Mrs. Hancock testified for the administration. The intent of this bill is to change our law as to conform with the Intergovernmental Personnel Act of 1970 with the federal government so that we can hire these people. This does not create any positions and we can pay 0 to 2/3 of their salary — no more. The federal government will take care of all benefits — social security, etc. and allow us to have the expertise of these men.

Sen. MORRISSETTE: I rise in favor of this bill and feel that it is a good bill. This is a good concept and saves our state some money.

Adopted. Ordered to third reading.

Sen. KOROMILAS: Mr. President, I move that we take HB 322 off the table.

Adopted.

HB 322

relative to dogs pursuing game.

Sen. KOROMILAS: Mr. President, I offer an amendment to HB 322 and ask the Clerk to read the first sentence.

CLERK: "466:33 Dogs at Large. It shall be unlawful for the owner or custodian of any dog to permit such dog to run at large in territory inhabited by game birds or quadrupeds or on land which sheep or other livestock are pastured between January 1 and September 1 of any year provided that bob cat may be hunted between January 1 and June 1 with dog under the owner's control and supervision and further provided that hares and rabbits may be hunted with dogs during the open season therefor under the owner's control and supervision.

Sen. KOROMILAS: HB 322 was passed by the House and Senate and went to the Governor's Office. It was recommended that this bill be recalled. The bill had a technical difficulty and that is why it was recalled. HB 322 reads as follows: "It shall be unlawful for the owner or custodian whose dog runs at large . . ." That particular part of the sentence makes no sense and all the amendment does is to read as follows with respect to the first sentence and the rest of the bill has not been touched: "It shall be unlawful for the owner or custodian of any dog to permit such dog to run at large." So the unlawfulness of the bill is to permit the dog running at large.

Sen. POULSEN: If I let my dog out of my house, isn't he at large? Am I then to be penalized?

Sen. KOROMILAS: This has to do with a certain territory and in a certain period.

Sen. POULSEN: But if my dog did leave the house after January 1, would I then be guilty?

Sen. KOROMILAS: If the area was inhabited by game birds or quadrupeds.

Sen. POULSEN: All areas are inhabited by these.

Sen. LAMONTAGNE: If I have a hunting dog and he is lost in the woods, would I be liable for arrest?

Sen. KOROMILAS: I don't think that if the dog had just been out and came back, the conduct would be unlawful.

Sen. LAMONTAGNE: Mr. President, I move that HB 322 be recommitted to the Committee on Recreation and Development.

Adopted.

PERSONAL PRIVILEGE

Sen. SNELL: Not one member of this General Court would dispute the fact that our prime concern is the economy of our state. Not one member of this Legislature would deny that the welfare of our citizens is our first responsibility. Yet day after day, we jeopardize both to foster our own personal interests, to satisfy a prejudice, to maneuver a favor, to foil an opponent — our noble intentions lost in the Battle of the Bills, the intrigue of petty politics. And to that accusation, each of us replies — "Oh, not I."

Every single person in this assembly knows some positive action must be taken — and at once — to insure the sound economy of our state, to guarantee the welfare of our citizens. We know, too, there is only one way to do this — provide added income for our state treasury.

When we refuse to do this, is it our Governor who will suffer most? His advisers? Our political enemies? Or is it the score of retarded youngsters recently refused admittance to the Laconia State School, or the inmates of our state prison denied needed psychiatric care or education because there are no funds? Is it the more than 6000 state employees, already underpaid in comparison to the salary scale of other states, who contribute a substantial share of the tax dollar?

When we cut down our share of the Extension Service budget, whom do we punish? The particular agent who inadvertently may have offended us, or the young homemaker forced to struggle harder to exist on her meager income because the home economist, who was teaching her to sew and to use surplus commodities, is no longer available.

And speaking of the Cooperative Extension Service, let's think about it for a minute. There are a few who have said, "4-H is fine, we need that; but home economists and agriculture

must go." How many of you realize how strongly integrated all departments of this agency are? In Strafford County, for example, the home economist works very closely with the 4-H agent to develop a strong, worthwhile program for 4-H girls — the homemakers of the future. Without her help, the program would suffer immeasurably.

Also, in Strafford County — and I am sure in others, as well — a great deal has been done by the home economists to make life better for the low income people; the elderly; and the average, hardworking family who need to know how best to stretch their dollar, how to live together as a family and as a community. Together with the 4-H nutritionist and 4-H members, the home economist has developed methods and recipes for using surplus commodities that contribute enormously to the health and well being of those with limited funds for grocery buying. The Extension home economist and 4-H nutritionist have instituted classes in basic sewing and basic nutrition for people of low and moderate incomes.

The agricultural program is constantly being revamped and improved. It is spreading to urban areas with programs in horticulture for the city dweller, with manpower training programs, with research. In fact, it's a pretty good bet that the title of "agricultural agent" will soon be changed to indicate the new fields into which he is expanding.

Of course, we must give careful consideration to every appropriation we approve; but we must not put *parsimony* before prudent spending. We must not refuse to provide necessary income to spite an individual or group.

We know this administration has made errors; but, remember, the executive branch of our state government cannot be held solely responsible for our sad financial situation. This body must share the blame.

I am certain the majority of wage earners in New Hampshire would rather part with a few cents extra whenever they shop than to lose long overdue salary increases. I am sure any wage earner would prefer to pay a few dollars in income tax than to lose his job. Loss of jobs means larger welfare costs and fewer workers to bear the expense. This is *not* the way to stimulate the economy.

Therefore, I urge our colleagues in the house to stop playing politics and start acting in a positive manner to insure the health, happiness and prosperity of our people — to assure the future of this great Granite State.

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption and that when the Senate adjourn today, it be until tomorrow at 1 o'clock.

Adopted.

LATE SESSION

Third reading and final passage

HB 32, providing for county contributions to tuition paid for the education of handicapped children in Cheshire County.

SB 112, relative to fingerprinting all state employees.

Sen. Lamontagne moved reconsideration. Motion lost.

SB 151, relative to reimbursement for damages caused by vandalism.

HB 910, relative to exchange of employees with the federal government in certain cases.

Adopted.

Sen. Townsend moved that the Senate Adjourn at 2:58 o'clock.

Adopted.

*Wednesday**12May71*

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

O GOD, our Father, we know that this life has few answers and none are simple. We are afraid of so many things, especially the uncertain. So many of the things we try to do seem to get beyond our control and turn out differently from what we wanted. Disappointment and frustration becomes barriers of the past as we place our faith in the future. Put us in touch with reality: teach us individuality and responsibility; independence and mutual affection; when to be aggressive and when to be patient. We ask to be recharged and revitalized today, to be redirected, to be aided in setting our goals, to be given courage when we are challenged, and strengthened in our just endeavors. Amen.

Pledge of Allegiance was led by Sen. Foley.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 223, authorizing towns to appropriate funds to employ counsel for the prosecution of misdemeanors. (Spanos of Dist. 8 — To Executive Departments, Municipal and County Governments.)

SB 224, relative to the procedure for changing zoning regulations. (Jacobson of Dist. 7 — To Executive Departments, Municipal and County Governments.)

SB 225, prohibiting the manufacture, sale and use of amphetamine-type drugs. (Koromilas of Dist. 21 — To Public Health, Welfare and State Institutions.)

SB 226, providing that the election recount fee be waived in certain cases. (Koromilas of Dist. 21 — To Executive Departments, Municipal and County Governments.)

SB 227, providing for equitable actions against polluters of the air, water and other natural resources of the state. (Koromilas of Dist. 21 — To Resources and Environmental Control.)

SB 228, relative to the minimum age for marriage. (Koromilas of Dist. 21 — To Judiciary.)

SB 229, to abolish the holder in due course doctrine. (Koromilas of Dist. 21 — To Judiciary.)

SB 230, including certain cooperative school districts among those school districts which may elect officers at the time and places for the election of town officers in the towns which comprise said districts. (Jacobson of Dist. 7 — To Education.)

SB 231, to transfer certain costs of the superior court from the counties to the state, and making an appropriation therefor. (Tufts of Dist. 23 — To Judiciary.)

SB 232, providing the age of majority shall be eighteen years of age. (Porter of Dist. 12, Leonard of Dist. 13 — To Judiciary.)

SB 233, relative to sewage disposal systems. (Poulsen of Dist. 2 — To Resources and Environmental Control.)

SB 234, providing for consumer product warranty protection. (Koromilas of Dist. 21 — To Judiciary.)

SB 235, relative to the fee for a liquor license issued after April first. (Gardner of Dist. 6 — To Ways and Means and Administrative Affairs.)

SB 236, to abolish the so-called "locality rule" in judicial matters involving professional malpractice suits. (Nixon of Dist. 9, Koromilas of Dist. 21 — To Judiciary.)

SB 237, relative to salaries of special justices of the district courts. (Nixon of Dist. 9 — To Judiciary.)

SB 238, relative to release from county jails and houses of correction. (Nixon of Dist. 9 — To Judiciary.)

SB 239, providing that irreconcilable differences shall be the sole grounds for divorce and eliminating the fault concept of divorce. (Leonard of Dist. 13 — To Judiciary.)

SB 240, to provide a procedure for the disposition of claims arising from legal or medical malpractice. (Nixon of Dist. 9 — To Judiciary.)

CACR 32, Relating to: Age Qualifications for Certain Elective Offices, and Providing that: No Person Shall Be Qualified To Be Elected Governor or State Senator Until He Has Attained His Twenty-seventh Birthday. (Koromilas of Dist. 21 — To Judiciary.)

HOUSE MESSAGES
INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 542, to require cities and towns to provide tax maps. (Executive Departments, Municipal and County Governments)

HB 622, relative to regional sewage disposal plants. (Resources and Environmental Control)

HB 624, banning propeller air driven boats from the waters of New Hampshire. (Resources and Environmental Control)

HB 636, to expand the authority of Water Supply and Pollution Control Commission relative to safety regulations for recreational camps and public swimming pools. (Resources and Environmental Control)

HB 652, to exclude animals from restaurants and stores that sell food. (Public Health, Welfare and State Institutions)

HB 702, relative to qualifications for members of a school board. (Education)

HB 769, providing for consultation by the Labor Commission with chiropractors relative to reasonable value of services. (Public Health, Welfare and State Institutions)

HB 811, changing the name of the Plymouth Village Fire District. (Executive Departments, Municipal and County Governments)

HB 828, relating to action by the Budget Committee prior to a special meeting. (Executive Departments, Municipal and County Governments)

HB 872, to amend the charter of New England College. (Education)

ENROLLED BILLS REPORT

HB 265, prohibiting the use of motor boats on Mirror Lake in Woodstock.

HB 910, relative to exchange of employees with the federal government in certain cases.

HB 589, legalizing certain town meetings in the town of Windham.

Sen. Ferdinando
For the Committee

HOUSE CONCURRENCE ON SENATE
AMENDMENT TO

HB 32, providing for county contributions to tuition paid for education of handicapped children in Cheshire County.

HOUSE ADOPTION OF ENROLLED BILLS
AMENDMENT

SB 16, relative to the establishment of the position and salary of the associate justice and deputy clerk of the Nashua District Court.

HOUSE CONCURRENCE

SB 67, to permit a licensee forty-eight hours to present license and registration to law enforcement officials after a lawful request therefor.

SB 71, establishing a study committee to report on the feasibility of making available state owned recreational areas to disadvantaged New Hampshire residents.

The House acceded to Senate request for a Committee of Conference on:

SB 58, to prohibit any special justice or associate justice of a district or municipal court from practicing law in any district or municipal court.

The Speaker appointed as members of said Committee on the part of the House, Reps. Frizzell, Healy and Margaret Griffin.

COMMITTEE REPORTS

SB 173

establishing an environmental protection division in the Office of the Attorney General and making an appropriation therefor. Ought to pass. Sen. Porter for Resources and Environmental Control.

Sen. PORTER: Mr. President, SB 173 had a hearing yesterday and several people appeared in favor of the bill. I sponsored this on behalf of the Attorney General's Office and it was also endorsed by the Environmental Council which was created by Governor Peterson last summer.

There are various environmental agencies throughout the state including the Water Supply and Pollution Control, Water Resources, Solid Wastes, Pesticides and many others. Now, none of these have their own attorney and have to rely on the Office of the Attorney General to prosecute or enjoin violators as time permits. It was felt that these departments definitely need specifically assigned attorneys to assist them in enforcement of existing statutes, drafting of regulations and rules and contract definitions. The volume of work in all the environmental agencies in the state requires this additional help. This insufficient legal counsel for these agencies does not represent a savings for the state and, in fact, could cause additional costs — undue costs.

The Environmental Council, as I mentioned, has endorsed SB 173 and was endorsed yesterday by several others of the agencies. The bill does contain an appropriation so under the rules, it would be sent to Finance.

Referred to Finance.

HB 90

relative to the purchase of waters or lands by the Director of Fish and Game and making an appropriation therefor. Ought to pass. Sen. Porter for Resources and Environmental Control.

Sen. PORTER: Mr. President, HB 90 was also heard yesterday by the Committee and there was no opposition to the bill. The first part of the bill, which will require an appropriation and therefor be sent to Finance, appropriates \$66,000 that will be coupled in with federal funds for acquisition of land, water rights during this fiscal year. The second part of the bill merely retains the dollars received by the Fish and Game Commission in a special fund which was received from the sale

of Merrimack Rearing Station. It holds these funds available for the future acquisition of a rearing or fish hatchery station to be selected.

Referred to Finance.

HB 325

authorizing the Water Resources Board to control the release or withholding of stored water if necessary for the public health or safety. Ought to pass. Sen. McCarthy for Resources and Environmental Control.

Sen. MCCARTHY: Mr. President, HB 325 was also heard yesterday. It has for its intent the protection of public and private rights of parties on bodies of water against loss by another party who might dam up or otherwise affect the level of that particular body of water. This bill reemphasizes the Water Resources Board's rights in such cases by giving it such power as to direct such changes as it would deem equitable. The major change in this particular bill is that it shall direct such changes as would be fair to all parties.

Adopted. Ordered to third reading.

Sen. Nixon moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock.

Adopted.

LATE SESSION

Third reading and final passage

HB 325, authorizing the Water Resources Board to control the release or withholding of stored water if necessary for the public health or safety.

Adopted.

Sen. Leonard moved the Senate adjourn at 1:29 o'clock.

Adopted.

Thursday
13May71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

"Let me today be a Christian not only in my words but also in my deeds:

Let me follow bravely in the footsteps of my Master, wherever they may lead:

Let me be hard and stern with myself:

Let there be no self-pity or self-indulgence in my life today:

Let my thinking be keen, my speech frank and open and my action courageous and decisive. Amen."

(by request, Author Unknown)

Pledge of Allegiance was led by Sen. Nixon.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 241, establishing a state classified personnel and management study commission, and making an appropriation therefor. (Bradshaw of Dist. 10 — To Ways and Means and Administrative Affairs.)

SB 242, regulating the drilling of water wells and requiring a licensed driller. (Porter of Dist. 12 — To Public Works and Transportation.)

SB 243, relative to group life insurance plans. (Leonard of Dist. 13 — To Banks, Insurance and Claims.)

SB 244, establishing an environmental protection department, and making an appropriation therefor. (Porter of Dist. 12 — To Resources and Environmental Control.)

SB 245, relative to zoning in the City of Manchester. (Ferdinando of Dist. 14 — To Executive Departments, Municipal and County Governments.)

ENROLLED BILLS REPORT

HB 32, providing for county contributions to tuition paid for education of handicapped children in Cheshire County.

HB 242, providing that the reregistration of voters be postponed until 1973 and establishing a committee to study and report on the form of checklists.

HB 325, authorizing the Water Resources Board to control the release or withholding of stored water if necessary for the public health or safety.

SB 16, relative to the establishment of the position and salary of the associate justice and deputy clerk of the Nashua District Court.

SB 67, to permit a licensee forty-eight hours to present license and registration to law enforcement officials after a lawful request therefor.

SB 71, establishing a study committee to report on the feasibility of making available state owned recreational areas to disadvantaged New Hampshire residents.

Sen. Ferdinando
For The Committee.

HOUSE MESSAGES

HOUSE CONCURRENCE ON SENATE AMENDMENT TO

HB 242, providing that the reregistration of voters be postponed until 1973 and establishing a committee to study and report on the form of checklists.

REQUEST FOR COMMITTEE OF CONFERENCE

On motion from Sen. Poulsen, the Senate voted to accede to House request for a Committee of Conference on:

HB 328, repealing the statute providing that the Labor Commissioner shall establish the minimum wages paid by the

state and its political subdivisions in the construction of public works and enacting an anti-kickback in public works statute.

The Speaker has appointed as members of said Committee on the part of the House, Reps. Trowbridge, Hanson and Coutermarsh.

The President appointed as conferees on the part of the Senate. Sens. Poulsen and Lamontagne.

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 501, relative to the Board of Chiropractic examiners and registration. (Public Health, Welfare and State Institutions)

HB 540, amending the charter of the Union School District of Keene to provide that the treasurer be appointed by the school board. (Education)

HB 643, relative to supervisory audits of credits unions. (Banks, Insurance and Claims)

HB 683, establishing a finance officer for the City of Manchester and defining his duties. (Manchester Delegation)

HB 701, legalizing proceedings of the special district meeting and election, and the town meeting held in Conway on December 16, 1970 and March 9 and 11, 1971. (Executive Departments, Municipal and County Governments)

HB 703, providing that no person shall furnish to another person a license issued to himself. (Recreation and Development)

HB 733, relative to operating snow traveling vehicles in the vicinity of ice fishermen. (Public Works and Transportation)

HB 742, to amend the charters of certain savings banks. (Banks, Insurance and Claims)

HB 798, requiring notice of junking of motor vehicles. (Public Works and Transportation)

HB 804, legalizing the school district meeting in the towns of Belmont and Canterbury. (Executive Departments, Municipal and County Governments)

HB 808, relative to unfair sales practices and the enforcement of the unfair sales act. (Judiciary)

HB 830, naming Loon Mountain Road. (Public Works and Transportation)

Sen. POULSEN: Mr. President, I move that the order whereby SB 134 was referred to the Committee on Public Works be vacated and that SB 134 be referred to the Committee on Judiciary.

Adopted.

COMMITTEE REPORTS

SB 131

abolishing arrest upon civil process. Ought to pass. Sen. Nixon for Judiciary.

Sen. NIXON: Mr. President, SB 131 was sponsored by Sen. Spanos. It would, if passed, do away with the law of New Hampshire which now permits people to be imprisoned because of civil indebtedness in certain instances. This is a minority rule across the country. Actually, jailing people because they haven't paid money in civil situations goes back to Dickens' time and it is self-defeating because if you put a man in jail because he has not paid his debt, there is no means by which he can pay his debt.

This law which permits the jailing of civil debtors is very rarely used, as pointed out by Chief Justice Frank Kenison of the New Hampshire Supreme Court, who testified in support of the bill. When it *is* used, it is usually abused by some unconscionable creditor employing some agent in the legal process who is probably equally unconscionable and, as a result, the judicial system in terms of the respect it has in the eyes of the public suffers.

The Committee unanimously voted that this bill be passed.

Sen. SPANOS: I rise in support of the Committee Report "Ought to Pass."

As Sen. Nixon stated, this bill would eliminate a practice which is right out of the pages of Charles Dickens' "Great Expectations" — imprisonment for a debt. The debtors prison concept shouldn't be applicable in the 20th century.

Although rarely utilized — I have seen it happen where a man was jailed because of an unpaid bill. This procedure is repugnant and is unconscionable. It violates all that is humane and decent in a Christian society.

I hope that you will join with me in supporting the Committee report and expunge these statutes from the books.

Adopted. Ordered to third reading.

SUSPENSION OF RULES

Sen. NIXON: Mr. President, I move that the rules of the Senate be so far suspended as to allow the introduction of a Committee Report on HCR 17 waiving the required notice of the hearing.

Adopted.

HCR 17

Ratifying the Proposed Amendment to the Constitution of the United States Extending the Right to Vote to Citizens Eighteen Years of Age or Older. Ought to pass. Sen. Downing for Judiciary.

Sen. NIXON: Mr. President, HCR 17 would, if passed, place New Hampshire twenty-seventh in line with the states of which there have to be thirty-four in order to ratify a proposed amendment to the United States Constitution which, if adopted by the sufficient number of states, would permit eighteen-year-olds to vote in state, local and county elections in addition to federal or national elections, which they are now allowed to do by decision of the United States Supreme Court.

The proposed amendment was adopted in the United States Senate by a 94 to 0 vote and in the United States House of Representatives by a vote of 400 to 19. It would, in effect, resolve the problem which was created by the decision of the United States Supreme Court which held constitutional the law which permits eighteen-year-olds to vote in federal and national elections but held unconstitutional, under the present Constitution, the law which would allow them to vote in local and state elections which, as you know, resulted in a rash of bills being introduced into state legislatures, including our own, to permit eighteen-year-olds to vote in state, local and county elections.

This proposed United States Constitutional Amendment, if ratified by a sufficient number of states, that is two-thirds or

thirty-four, would resolve this difficulty and permit eighteen-years-olds the right to vote in *all* state, county and local elections in addition to national elections.

The Committee's vote on the proposal was unanimously, "ought to pass" and I hope you will support it.

Sen. SPANOS: Mr. President, I rise in support of the Committee Report "Ought to Pass."

First, I have long supported the right of the 18 year old to vote in all elections and I am pleased to support this proposed U. S. Constitutional Amendment.

Second, I should point out that the House has already passed this resolution, overwhelmingly and by a voice vote.

Third, as of this morning, 26 states had ratified this proposed amendment. N. H. would be 27 with only 11 more to go.

I urge your support of the Report, in the interest of a truly participatory democracy.

Sen. S. SMITH: Mr. President, I rise also in support of this resolution and believe that we should, almost as unanimously as the United States Senate, adopt this forward-thinking amendment in this time of change and development.

Sen. PORTER: Mr. President, I rise in support of committee report:

Young people in recent years have actively sought the franchise to vote at 18 years of age. The support by those over 21 has also increased dramatically in recent years. A Gallup poll in 1967 indicated public support for 18 year old vote had reached an all time high of 64% (2 out of every 3 adults), whereas only 17% held this view in 1939.

The question becomes one of whether or not youth could demonstrate the acceptance of responsibilities of adulthood prior to receipt of adult privileges.

Young people have indicated a willingness and desire to accept the responsibilities as well as the privileges. It is probably true that many are uninformed as to the realm of responsibility they are accepting, and strong consideration should be given to added curricula at the high school level which prepares

these young people in an orderly manner. Nevertheless, the process of providing for a voting age of 18 should be coupled with a simultaneous effort to achieve a reduction in the age of statutory responsibility.

To these ends, Sen. Leonard and I have entered a bill to reduce the age of majority to 18, thus coupling in privileges to responsibilities.

In summary, the argument that if you can send a 18 year old to fight or die for his country, you've got to let him vote, is a VALID argument; however, with this privilege, the age at which a person becomes legally responsible to society for his own acts must be the same. This lowered age of responsibility has far reaching impact on young and old alike.

I urge your favorable consideration.

Sen. LAMONTAGNE: Mr. President and members of the Senate, as you all well know, I voted against the eighteen-year-old vote in previous bills that came before this body. However, I feel that the opposition is so great that I am not going to oppose it again. In the Committee, I neither voted for nor against the resolutions, but I only hope that I am wrong in my thinking and sincerely hope that the young people's vote will be an asset to our country.

Sen. MORRISSETTE: Mr. President, I rise in support of this resolution. I have been fighting for recognition of our young adults and I only have one thing to say. I have a letter here from the Dean of St. Anselm's College that ties right in with this. "That it is the responsibility of institutions of higher learning to create conditions conducive to the mature and responsible control and development of one's own person and to obviate the frequent and often justifiable accusations of adult hypocrisy."

I think it is about time we gave our young adults this responsibility and I think they will surprise us.

Resolution adopted. Ordered to third reading.

SJR 15

providing for studies for direct access from the F. E. Everett Turnpike to the Central Business District of Manchester. Ought to pass. Sen. Ferdinando for Public Works and Transportation.

Sen. POULSEN: Mr. President, SJR 15, introduced by the Manchester Delegation, establishes a study committee to study the access from the F. E. Everett Turnpike to the center of Manchester. This has the approval of the State Highway Department. They were all in agreement with it and the Committee on Public Works moves that it ought to pass.

Sen. MORRISSETTE: Mr. President, I rise in favor of this resolution. We can start immediately to hold hearings and conduct a feasibility study to make possible what I believe will be one of the biggest booms to our city. I feel very sincerely that when you boost the economy of a city, especially one that contributes so largely to the budget of the state, that you are helping out your state. After holding meetings with the Highway Department, it was decided that they could get by; they have adequate personnel to conduct these hearings and to do the engineering work.

Resolution adopted. Ordered to third reading.

Sen. S. Smith in the Chair.

HB 272

requiring fishways to be built on certain dams. Ought to pass. Sen. Morrissette for Recreation and Development.

Sen. MORRISSETTE: Mr. President, I feel this is one of the most important bills that has been introduced for the Fish and Game for many years. This HB 272 is intended to restore the Atlantic salmon and shad and other fish to the Merrimack Water Shed and the Connecticut Valley Water Shed and its tributaries.

The Committee heard testimony regarding this bill for setting up fish ladders on the dams. It was brought out that this is not expensive. Some of these ladders have been put up already. It is normally on a 50-50 basis with the government. As far as dams that are operated for the benefit of your public utility, they will cooperate in the water sheds. The dams are existing for the benefit of the people. I hope my colleagues will go along with this resolution. I am in hopes that this is one more step towards having our waters unpolluted.

Sen. SNELL: Sen. Morrissette, you mentioned the dream of having our streams clean once again so that we can use them for all types of recreation. Do you feel that this is your

dream — that some additional types of revenue might be necessary to bring this dream about?

Sen. MORRISSETTE: I have repetitiously stated that you can have your \$40 million or \$80 million without broad-based taxes.

Sen. R. SMITH: Sen. Morrisette, could the provisions of this act apply to dams owned by the state?

Sen. MORRISSETTE: I assume they would. In the case of private property, there would be no problems in that it is done for the state, they will pay and the owners will not be involved.

Sen. R. SMITH: Would you repeat again for me — in the case of dams owned by the state, who is responsible for the charge of erecting the fish ladders?

Sen. MORRISSETTE: It would be the Fish and Game Department in conjunction with the federal agency.

Sen. JACOBSON: Sen. Morrisette, I noticed that you gave testimony that the fish do not eat on the way up to spawning.

Sen. MORRISSETTE: I said that they were not adversely affected by the fact that the water may be polluted. They eat some but not enough to have any harmful effect on them when they reach their breeding ground.

Sen. JACOBSON: Was there any testimony on the ability to find their way through the murky waters and the waste materials in the river?

Sen. MORRISSETTE: The Fish and Game people felt that it would have no bearing on the salmon on their way up.

Adopted. Ordered to third reading.

HB 276

relating to conservation officers of the Fish and Game Department. Ought to pass with amendment. Sen. Koromilas for Recreation and Development.

Sen. PORTER: Mr. President, I move that HB 276 be made a Special Order of Business for 1:01 on Wednesday, May 19.

Adopted.

HB 278

relating to milk producer permits. Inexpedient to legislate. Sen. Koromilas for Recreation and Development.

Sen. MORRISSETTE: Mr. President, we reported this bill as inexpedient to legislate because we felt, from the testimony in the hearing, that this would be unjust to your farmer who ships his milk out-of-state in that he is already licensed for that purpose and it would serve no additional benefit. It would create additional expense for the state and an additional restriction on the small farmer and would be of absolutely no benefit to the consumer.

Resolution adopted.

HB 472

establishing the time when beaver may be trapped in Coos County. Refer to Legislative Study Committee. Sen. Koromilas for Recreation and Development.

Sen. PORTER: Mr. President, HB 472 relates to taking of beaver in Coos County. Rep. Huggins introduced the bill and spoke in favor of it to assign a particular season to the taking of beaver in Coos County. Mr. Laramie from the Fish and Game Department explained that this would remove the authority from the Fish and Game to adopt wild life management practices. The Director of Fish and Game has advised Mr. Laramie to advise Rep. Huggins that a season will be open during March '72 and '73. The seasons are determined by their management practices and they control the trapping permits in the area. The thrust of the bill is to have an open season. The Fish and Game will keep a season open in '72 and '73. We have referred the bill to the Legislative Study Committee so that they can check any further action that may be taken if necessary.

Resolution adopted.

SUSPENSION OF THE RULES

Sen. TUFTS: Mr. President, I move that the rules of the Senate be so far suspended as to allow for the introduction of a Committee Report not properly advertised in the *Calendar*.

Adopted.

SB 182

providing that the designee of the Speaker of the House of the President may sign bills. Ought to pass. Sen. Tufts for Ways and Means and Administrative Affairs.

Sen. BRADSHAW: Mr. President, for the first time, the Attorney General has ruled that, according to his interpretation of our Constitution, the Speaker and the President must sign all bills. This was a ruling that Attorney General Rudman made in January of this year. Until that time, everybody, or at least the Secretary of State, most governors and most attorney generals had felt that it was perfectly all right for the designee to sign the bills. However, Attorney General Rudman has ruled that the only signature that he will accept is that of the Speaker and the President. The bill that we have before us at the present time is one that was written by the Attorney General so that he will be satisfied that a designee can sign measures.

The situation at the moment and the reason that we are asking for suspension of the rules is that the Speaker of the House is going to be away all next week and if he cannot appoint somebody to sign those bills, then all bills that are enrolled next week would have to hold over and wait until the following week. This same situation has occurred, particularly at the end of a session or at a time that maybe the presiding officer is ill or out of the state for one reason or another. The real reason for having this is to allow an orderly flow of the bills so that once the body had disposed of them, they can be enrolled, signed and sent on to the Governor for his consideration.

This is what is commonly known as a "housekeeping measure" and I hope that the Senate will go along with the Committee Report, "ought to pass."

Sen. JACOBSON: Sen. Bradshaw, the way this bill is worded, it would not take effect until 60 days after passage and therefore would not apply to this session of the Legislature.

RECESS

Sen. BRADSHAW: Mr. President, I move that SB 182 be amended.

AMENDMENT

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Effective Date. This act shall take effect upon its passage.

Sen. BRADSHAW: Mr. President, I would like to thank the eve. watchful eye of our distinguished senator from the

Seventh District for calling this to our attention because if the bill had gone through the way it was worded, it would have violated the whole intent of the measure. Once this was called to my attention, I do remember that we did have some discussion because our rules state that generally, bills shall have an effective date of 60 days after passage and in order to make it effective upon passage, it would need an amendment. I do hope that my colleagues will support the amendment.

Amendment Adopted.

Sen. JACOBSON: Mr. President, I rise in support of SB 182 because I think it will facilitate the process whereby the President is going to be relieved, to a certain degree, of busy work and will make his office more efficient and that of the Speaker as well.

Ordered to third reading.

Sen. Bradshaw in the Chair

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until Tuesday next at 1 o'clock.

Adopted.

LATE SESSION

Third reading and final passage

SB 131, abolishing arrest upon civil process.

HCR 17, Ratifying the Proposed Amendment to the Constitution of the United States Extending the Right to Vote to Citizens Eighteen Years of Age or Older.

Sen. Spanos moved reconsideration.

Motion lost.

SJR 15, providing for studies for direct access from the F. E. Everett Turnpike to the Central Business District of Manchester.

HB 272, requiring fishways to be built on certain dams.

Sen. Morrissette moved reconsideration.

Motion lost.

SB 182, providing that the designee of the House or the President may sign bills.

Sen. S. Smith moved reconsideration.

Motion lost.

Adopted.

Sen. Snell moved that the Senate adjourn at 2:13 o'clock.

Adopted.

Tuesday
18May71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

Our FATHER, Thy providence which has attended our ways in times past has taught us to trust Thee for each day. As we enter upon this new day of service, may our faith be renewed, our love rekindled, and our concern regenerated. Teach us, through Thy Word, those lessons vital to our learning. Forgive us for duties unattended in the past, for obligations unmet, and for responsibilities ignored. Lead us with Thy sure hand, and as we follow without hesitation, may our higher resolve to do Thy Will bring us closer to Thee through a deeper commitment to Thy cause — In Christ's Name we pray. Amen.

Pledge of Allegiance was led by Sen. Townsend.

Sen. S. Smith in the Chair.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 246, to transfer certain costs of the superior court from the counties to the state, and making an appropriation therefor. (Foley of Dist. 24 — To Judiciary.)

SB 247, relative to public notice, burden of proof and hearing requirements for city zoning. (Ferdinando of Dist. 14 — To Executive Departments, Municipal and County Governments.)

HOUSE MESSAGES HOUSE CONCURRENCE

SB 182, providing that the designee of the Speaker of the House or the President may sign bills.

SB 92, authorizing law enforcement officers to require weighing of motor vehicles.

HOUSE NON-CONCURRENCE

SB 69, relative to hawkers and peddlers.

ENROLLED BILLS REPORT

SB 182, providing that the designee of the Speaker of the House or the President may sign bills.

Sen. Ferdinando
For The Committee

ANNOUNCEMENTS

The Chair would state that it has been requested that the order whereby SCR 5 and SCR 6 were sent to the Committee on Rules and Resolutions be vacated and sent to the Committee on Judiciary.

Adopted.

COMMITTEE REPORTS

HB 94

appropriating funds to assist the Lebanon Regional Airport Authority. Ought to pass. Sen. R. Smith for Finance.

Sen. TOWNSEND: Mr. President, HB 94 was to assist the Lebanon Regional Airport financially to complete this fiscal year. The bill, as it was originally drawn, called for an appropriation of \$6,400. This \$6,400 was not a magic figure. It was a figure that was arrived at by the Aeronautics Commission from auditing the books and the budget and determining that this was the figure needed to complete the year. The bill was

amended in the House and the figure was changed from \$6,400 to \$5,000. It was further amended that the appropriation, instead of coming from the General Fund, would be a charge against the enplaning fee share that has been accumulated by the Lebanon Regional Airport. This \$5,000 will be paid back from that money that is being held in escrow at the present time when it comes available. These are the two amendments that the House put onto the bill and the Senate Finance Committee has voted it as "ought to pass."

Sen. SPANOS: I rise in support of the Committee Report.

The Lebanon Regional Airport, among other things, services the area which I represent and therefore I am vitally interested in it especially when the legislation before us is actually a "bill in relief." It merely maintains the status quo for an airport which is in serious financial difficulty and according to Capt. Sweeney of the N. H. Aeronautics Commission is going down hill.

Vermont, which has contributed in the past towards the operation of this facility, is slowly withdrawing support because that state has voted to take over its own airports. The towns who have supported the Airport (about 85% of the cost) in the past because of their own financial crunch are becoming more reluctant to underwrite the operation of this airport. Compacts with Vermont and with neighboring towns have failed. As Capt. Sweeney testified "the Commission has had to go out with a tambourine to raise money to meet its basic needs.

This is the background of the problem. What this bill does is provide \$5,000.00 to pay for electrical light and snow removal bills and to repair the runway where at least one airplane has gone through — and one other plane has had some difficulty.

This project may not cost the state any money, as there is currently money being held in escrow pending resolution of the enplaning fees legality in the courts. Under the law recently passed, 50% of the fee goes to the state and 50% to the airport. Lebanon has about \$6,500.00 coming to it if the legality is sustained. If it is, the bill provides that the state will be reimbursed for this \$5,000.00 appropriation.

In the meantime, we ought not to further jeopardize the life and limb of those passengers who utilize this facility. Until

we cultivate a more realistic approach to air navigation in this state, we should do all within our power to maintain and preserve these sites in the best interests of the people of this state.

Adopted. Ordered to third reading.

HB 206

relative to the director and deputy director of the New Hampshire Distributing Agency. Ought to pass. Sen. R. Smith for Finance.

Sen. R SMITH: HB 206 is strictly a "housekeeping" measure. What it does is to transfer the positions of director and deputy director of the New Hampshire Distributing Agency from the unclassified service to the classified service. This is made necessary by federal regulations which state that only one position in the so-called "chain of command" of the program for distributing surplus foods can be unclassified. As a result, the Comptroller, being the number one unclassified person in the chain, necessitates the changing of these two positions to classified.

Sen. KOROMILAS: You said that the federal law requires that a person in the director of deputy director's position has to be unclassified?

Sen. R. SMITH: Classified.

Sen. KOROMILAS: That means subject to civil service regulations?

Sen. R. SMITH: That is correct.

Adopted. Ordered to third reading.

HB 207

relative to the control of radiation. Ought to pass Sen. Koromilas for Public Health, Welfare and State Institutions.

Sen. KOROMILAS: Mr. President, HB 207 now covers, if the bill is passed, the type of non-ionizing radiation. All the bill does is add that to the present law. Let me make a distinction between ionizing radiation and non-ionizing radiation. In the first instance, the ionizing radiation, we are talking about X-Rays, isotopes, etc. With respect to non-ionizing radiation, which this bill does add to the present law, it gives public health the authority to check laser beams, microwave lengths, tv's and what have you.

The Public Health has been doing this type of work but they never had the authority and this will give that particular division the right to do, formally, what they had been doing informally. All it does is to add the word "non-ionizing radiation" as to microwave ovens which are very dangerous at times and places and also with respect to laser beams, color tvs, etc.

Adopted. Ordered to third reading.

HB 211

to provide for treatment of minors for drug abuse without parental consent. Ought to pass with amendment. Sen. Snell for Public Health, Welfare and State Institutions.

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Parental Consent. Amend RSA 318-B by inserting after section 12 (supp) the following new section: 318-B:12-a Treatment for Drug Abuse. Any minor twelve years of age or older may voluntarily submit himself to treatment for drug dependency as defined in RSA 318-B:1, IX or any problem related to the use of drugs at any municipal health department, state institution or facility, public or private hospital or clinic, any licensed physician, or other accredited state or local social welfare agency, without the consent of a parent, guardian, or any other person charged with the care or custody of said minor. Such parent or legal guardian shall not be liable for the payment for any treatment rendered pursuant to this section. The treating facility, agency or individual shall keep records on the treatment given to minors as provided under this section in the usual and customary manner, but no reports or records or information contained therein shall be discoverable by the state in any criminal prosecution. No such reports or records shall be used for other than rehabilitation, research, or statistical and medical purposes, except upon written consent of the person examined or treated. Nothing contained herein shall be construed to mean that any minor of sound mind is legally incapable of consenting to medical treatment provided that such minor is of sufficient maturity to understand the nature of such treatment and the consequences thereof.

Sen. SNELL: Mr. President, HB 211, introduced by Rep. Smith from Rockingham County, District 7, has to do with parental consent concerning the treatment of minors for drug

abuse. This bill, if passed, will affect young adults from the age of 12 and upward and I would like to quote from the testimony at the hearing by a number of individuals.

Rep. Smith: "I am concerned by the upswing of drug abuse in the state, primarily among the teenagers. I am a patrolman in the Town of Salem and am well aware of the problem. Children cannot communicate with their parents."

Rep. Riley: "I did much research for the House Judiciary Committee. As a mother, I was initially reluctant but now I am a strong supporter of this piece of legislation."

Dr. Atchison: "In the opinion of most physicians and consultants in the ratio of about 5 to 1, it is felt that there is a growing need for minors to seek and obtain good medical care when suffering from conditions associated with drug dependency. Children recognize the need for help and I think they should have the legal right to do so even if parents still feel stigma and shame of drug association."

We offered an amendment by deleting three words in this piece of legislation: "Nothing contained herein shall be construed to mean that any minor of sound mind is legally incapable of consenting to medical treatment, provided that such minor is of sufficient maturity to understand the nature of such treatment and the consequences thereof." We deleted "dental or surgical treatment" from this piece of legislation. I hope that the Senate will go along with out recommendations from Public Health and Welfare and State Institutions.

Sen. PORTER: Senator, I rise in support of your bill but I question as what level of treatment this child can expect it he needs it.

Sen. SNELL: The bill specifically spells out that this individual can go to a municipal health department, local physicians or hospitals to seek guidance if they have this fear of not notifying their parents. In some cases, some individuals would be willing to communicate with a physician and not with their parents.

Sen. PORTER: What if there is no treatment available?

Sen. SNELL: Then I hope we will be able to make it available and remedy the situation.

Sen. KOROMILAS: Mr. President, I support the Committee's amendment in deleting the words, "surgical and dental". This bill basically is a drug abuse type of legislation. The Committee felt that if this young person was going in for treatment for drug abuse, by what stretch of the imagination should the physician have the right, if it is a drug abuse problem, to extract his tooth or operate on him — this is the thrust of the amendment.

Amendment adopted. Ordered to third reading.

HB 288

relative to the development of services to aid the health and welfare of the citizens of New Hampshire. Ought to pass. Sen. McCarthy for Public Health, Welfare and State Institutions.

Sen. MCCARTHY: Mr. President, HB 288 is a "house-keeping" bill which was sponsored by Rep. Hamel at the request of the Division of Welfare. Mr. Thomas Hooker appeared on behalf of the Division of Welfare and testified that this bill was necessary in anticipation of the Welfare Reform Act — a federal act. The Welfare Division right now has certain responsibilities and has been doing it right along, but nowhere in the law is it stated as such. This bill actually spells out what their responsibilities are and the Committee recommends its passage.

Adopted. Ordered to third reading.

HB 368

regulating the sale of hypodermic syringes. Ought to pass. Sen. Koromilas for Public Health, Welfare and State Institutions.

Sen. KOROMILAS: Mr. President, HB 368 adds to the present law on hypodermic needles. Under the present law, a person who is not selling hypodermic needles is not committing a crime. In the last session, a similar bill came before us and I opposed it at that time. However, the way it is written now, because of the real drug problem we are having, I support it. It does make it a crime for a person to have a hypodermic needle in his possession that has not been prescribed by a veterinarian, doctor, dentist, embalmer, or paramedical type. The mere possession of an *unauthorized* hypodermic needle will become a crime in the State of New Hampshire.

Adopted. Ordered to third reading.

HB 432

relative to the rabies control law. Ought to pass. Sen. Marcotte for Public Health, Welfare and State Institutions.

Sen. MARCOTTE: Mr. President, HB 432 has two changes from the present law. First of all, it sets up a Rabies Control Authority which, instead of the town clerk, city clerk of a city or town handling the situations concerning a complaint, this authority takes over these complaints. That would include either town or city manager or the board of selectmen or mayor. Secondly, there are new vaccinations coming out relative to rabies and this would allow, instead of just two types of vaccines, the new ones to also be included to be used in the future.

Adopted. Ordered to third reading.

SB 90

relative to penalties for speeding. Refer to Judicial Council. Sen. Koromilas for Judiciary.

Sen. KOROMILAS: Mr. President, SB 90 was introduced by Sen. Jacobson. It has to do with increasing the fines for speeding. The Committee felt that a great deal had been done in this particular area with respect to motor vehicles and because of some of the issues that were involved, the Committee decided to send it to Judicial Council for further study.

Resolution adopted.

SB 164

relative to license for sale of real estate where there are unknown heirs, or heirs under disability, or heirs whose whereabouts are unknown. Ought to pass. Sen. Nixon for Judiciary.

Sen. NIXON: Mr. President, SB 164 was sponsored by myself at the behest of the section on Real Property, Probate and Trust Law of the New Hampshire Bar Association. What it purports to do is protect the rights of heirs, persons under disability or persons whose whereabouts are unknown in respect to the settlement of the estates. It merely provides that in the case where there is real estate involved in the estate of the decedent in question, and a petition has been submitted for a license to sell the real estate to the judge of probate, then and in that case, the judge of probate, if this bill passes, will be required to appoint someone as a guardian for the purposes of protecting the interests of any heirs who are under disability,

that is incompetent, or where they are unknown or their whereabouts are unknown so that they will have their interests in the real estate protected in the event that the license is granted and that notice would be given accordingly of their interests, and of the possible effect upon their interests, if the petition for the license to sell is granted.

There was no opposition to the bill. It is believed to be a minor but perhaps worthwhile improvement in the law of New Hampshire relating to the administration of estates insofar as protection of the rights of persons and citizens in New Hampshire is concerned.

Adopted. Ordered to third reading.

SB 187

relative to service of process against foreign corporations. Ought to pass. Sen. Nixon for Judiciary.

Sen. NIXON: Mr. President, SB 187 has to do with the means by which legal process can be served on corporations involved in the commission of wrongs or contractual wrongs in New Hampshire, but who must be served through the Secretary of State's Office because they do not have a registered agent here. In its wisdom years ago, this Legislature passed the "long arm" statute whereby if a corporation comes into New Hampshire and makes a single contract or, through its agents, comes into New Hampshire, although it be an out-of-state corporation and commits a tort here, then it is subject to legal process emanating from New Hampshire courts and can be reached by judicial process.

However, at the same time, the Legislature passed laws providing for the means by which this service is effected and that is upon the Secretary of State and with the payment of a fee and a notice by registered letter to the corporation. The problem is that there already existed in the law the means by which this could be done so we had a duplication with some minor differences in the manner by which the non-resident corporations could be served. This bill would do away with the additional process situation so that we would have left the same means by which we serve on foreign corporations under the previously existing law and under the law as amended two years ago. This is in the nature of a procedural or housekeeping bill. There was no opposition to it. It was suggested by a member of the bar who was confused because of the apparent duplication in re-

quirements. If passed, it will simplify our procedural law in respect to non-resident corporations subject to process emanating from New Hampshire courts.

Adopted. Ordered to third reading.

HB 180

relative to district courts. Ought to pass with amendment. Sen. Leonard for Judiciary.

Amend the bill by striking out section 1 and renumbering sections 2 and 3 to read sections 1 and 2.

Further amend the bill by striking out section 4 and inserting in place thereof the following new sections.

3 Findings of District Court Justice. Amend RSA 502-A:17-a as inserted by 1967, 40:1, by adding at the end thereof the following (provided that the district court justice hearing the case to be transferred shall file, if either party request it, as a part of the transferred case his findings in writing, stating the facts found and his rulings of law.) so that said section as amended shall read as follows: 502-A:17-a Transfers to Supreme Court. In any criminal case or civil cause in any district court questions of law may be transferred to the supreme court in the same manner as that from the superior court under RSA 491:17, provided that the district court justice hearing the case to be transferred shall, if either party request it, file as a part of the transferred case his findings in writing, stating the facts found and his rulings of law.

4 Effective Date. This act shall take effect sixty days after its passage.

Sen. KOROMILAS: Mr. President, the portion of the bill which requires district court judges and special judges to be members of the bar has been deleted, but a new provision has been added with respect to allowing a special justice to sit as a clerk in that particular district when the clerk is not present. Once he has sat as a clerk, he cannot sit as a judge on that particular issue. Furthermore, the bill does the following: it allows, under the present law, a disinterested justice of the peace to sit in the district court provided he is from that particular district. If, for some reason, the presiding justice and the special associate justice are disqualified, that justice of the peace has to be from that district under the present law. This provision would

allow any justice of the peace to come in and sit on a particular case.

Finally, a person has a right to appeal a decision at the district court level. This would allow any party to require the court to give a record to the Supreme Court of the findings. Under the present law, a decision is usually sent up but not the reasons for the decisions. This bill would require the justice to transfer to the Supreme Court a record of his findings of fact and his ruling of law that he is applying.

Adopted. Ordered to third reading.

HB 379

increasing the penalties for operating a motor vehicle after revocation or suspension of license. Refer to Legislative Study Committee. Sen. Nixon for Judiciary.

Sen. NIXON: Mr. President, HB 379 was sponsored by Rep. Twardus of the Rockingham District No. 14. It would merely have provided, in the case of driving after revocation or suspension of license, basically the same penalties except that it would have an additional or added period during which the person convicted would not be eligible to apply for a new license which would be in the case of revocation — a one-year period when that person would not be able to apply for another license. In the case of driving after suspension — twice the period of ineligibility originally attached to the revocation.

The Committee felt that this was a subject that deserved further study. The sponsor agreed at the time of the hearing that, in view of the fact that statistics show that roughly two-thirds of the people whose licenses are revoked or suspended, continue driving anyhow, that perhaps just increasing the period of revocation or suspension would not accomplish the desired end — that is, keeping bad drivers off the road. However, the Committee felt that it did deserve further study and thus, the recommendation that it be referred to the Legislative Study Committee.

Resolution adopted.

HB 551

clarifying the duties of the deputy attorney general. Ought to pass. Sen. Leonard for Judiciary.

Sen. NIXON: Mr. President, HB 551 was sponsored by Rep. Zachos of Hillsborough, Chairman of the House Judiciary Committee at the request of the Attorney General. Very simply, it would accomplish a situation where, in the case of a vacancy in the Office of the Attorney General, then the deputy attorney general would be legally authorized to act in his place. Strange as it may seem, in our present law, if the Office of Attorney General is vacant, there is nobody who is legally authorized to serve that function in New Hampshire. The deputy attorney general previously could serve in the case where the Attorney General was absent or unable to act. Now, he also would be able to serve as Attorney General when there is a vacancy in the office. This is a so-called "housekeeping" change thought necessary to clarify the authority of the deputy attorney general in cases where there is a vacancy in the Office of Attorney General.

Adopted. Ordered to third reading.

SJR 9

in favor of John Dukette of Andover. Inexpedient to legislate. Sen. Poulsen for Public Works and Transportation.

Sen. POULSEN: Mr. President, John Dukette in Andover had trouble with his water that he blamed on the construction of a state highway. He claimed salt in his water. The state furnished him with another source of water while they tested his water and found that he had no water to be replaced. I appointed a sub-committee to study this further and would ask that Sen. Lamontagne report on this.

Sen. LAMONTAGNE: Mr. President and members of the Senate, this goes back to 1961. I met with Mr. Edward S. King who is the water supply engineer and have a letter of his findings:

"Attached please find copies of the letters to Senator Jacobson, Senator Poulsen and to Congressman Cleveland, along with my previous report of September 23, 1964 to Walter Purinton in regard to the John Dukette water supply in Andover, New Hampshire.

"The following is a brief updating of the history of this water supply for your information. In August of 1961, the Dukette's complained that they had salt in their well because of the Andover project, S 233(3), PS3360 on Route 4 just north of the junction of Routes 4 and 11.

"The Dukette property is on the westerly side of the highway and on August 7, 1961, I obtained the first sample of water from this well which showed a chloride count of 204.0 parts per million. A sample taken on October 16, 1961 indicated a chloride count of 144.5 parts per million and a sample taken on October 22, 1961 indicated a chloride count of 134.0 parts per million. I would like to point out here that at this time the department was replacing water supplies that had over 100 parts per million of chlorides and that it was shortly after this that we adopted the U. S. Public Health Standards of 250 parts per million of chlorides as our criteria for a replacement water supply, which means that today such a well would not have qualified for a replacement supply. It was decided, however, at this time to purchase water rights from Mr. William George on the easterly side of Route 4 where a well was dug and piped to the Dukette property. The Dukette's complained that this new dug well that was put in by the State of New Hampshire went dry around the first of September. On the 21st of September, I visited the property and found that the well was dry.

"It was at this time that I suggested to the Dukette's that they use the old system which was a 1¼" well point driven in the cellar to a depth of about 12 feet. The Dukette's were reluctant to hook up to the well point and it was at this time that I began to realize that the property never did have an adequate water supply. I realized then that whenever I had stopped in the past to take a sample of water, Mrs. Dukette had said to come back the next day because they were having trouble with the pump or some other excuse such as she had just put through a large wash and that she was low on water.

"I decided at this time that the Dukette's would have to show me that they had an adequate supply before I would recommend that any more department funds should be spent at this location. The Dukette's were reluctant to hook up to the well point and they made many excuses as to why they did not think it would work. I told them quite frankly that it was rumored that the property before they purchased it never did have an adequate water supply (see report to Walter Purinton dated September 23, 1964). The Dukette's did finally connect to the well point again but whenever I attempted to take a sample of water, I was unable to fill the one-gallon sample container. At this point I explained to the Dukette's that I felt that

they never did have an adequate water supply and that in view of the circumstances, I could not recommend that the department drill them a new well."

Very truly yours,

Malcolm J. Chase, P. E.
Special Services Engineer
By: Edward S. King
Water Supply Engineer

This morning, I received a phone call from the bank in Franklin regarding this bill. I was under the impression that this bill would be withdrawn today and therefore told the bank that it would not come up. Due to this letter from Mr. King, I support the motion inexpedient to legislate.

Sen. JACOBSON: Did I understand that the letter said that they refused to allow Mr. King to visit?

Sen. LAMONTAGNE: The letter said that Mr. King went over to get some water, and because of a big washing, they could not give him any water and for him to come back another day.

Sen. JACOBSON: Did he, in fact, come back?

Sen. LAMONTAGNE: He did.

Sen. JACOBSON: Was he allowed to take a sample?

Sen. LAMONTAGNE: Yes, and he had a hard time getting his container full.

Sen. JACOBSON: How many days elapsed in between?

Sen. LAMONTAGNE: I don't know.

Sen. JACOBSON: Mr. President, I move that the words, "ought to pass" be substituted for the Committee Report, "inexpedient to legislate." I have the report that was issued to Congressmen James Cleveland back in 1964. This is signed by Commissioner Morton. On November 6, 1961, the Department assumed the responsibility for damage to the existing water supply. At that time, they moved to provide another water supply. They did not dig another well as was stated in the letter of Mr. King. What they did was to provide a hole on the property of Mr. George and drew a pipe from Mr. George's well

into this hole so that it would take the overflow water. When Mr. George's well went down, theirs went dry and they put in the complaint in 1964. Then, the process of examining the well took place and Mr. King arrived on September 22 and at that time, he did not get in for whatever reasons; they are not stated in Commissioner Morton's letter. On September 23, the next day, he did come and he did get an opportunity to take a sample, but that sample was inadequate. The judgment then was, because the water supply was inadequate, that it had always been inadequate. That question is a very moot point because in the intervening period of time, the highway had been built in the back of Mr. Dukette's home. There had been considerable blasting done so that the veins of water could have very well been changed from what they were.

There was no other solution for Mr. Dukette than to drill an artesian well — a dug well would not suffice because the highway is considerably higher than the house at the present time. In the old days, the highway went below the house on the easterly side. Therefore, when snow comes, the plow sprays the snow with the salt down into his backyard so that the salt would go into the dug well. As a matter of fact, I checked today with Mr. Humphrey and he said they even have a little bit of salt in the artesian well because of the precipitous situation of the highway relationship to the property. Given all the circumstances, I feel that there is a justice in giving Mr. Dukette something and I am hopeful that the Senate will accept my motion and that it can then be sent to the Finance Committee and some equitable amount be worked out.

Interestingly enough, I just discovered yesterday that the Highway Department has, for another individual on Rt. 11 in Andover, built *three* different wells so that there is a precedent for doing something beyond the initial step.

Sen. LAMONTAGNE: Could you tell us whether or not Mr. Dukette owned the property when the road was built?

Sen. JACOBSON: I do not know that fact. He made the complaint on August 1, 1961 and I believe that is approximately the time when the highway was being built. Mr. Whittemore who is the president of the Franklin Cooperative Bank indicated to me that he was the owner at the time but I cannot state that for a certainty.

Sen. FERDINANDO: Mr. President, I support Sen. Jacobson's motion. The Claims Committee two years ago heard this same bill and there was no evidence to indicate that Mr. Dukette should not be reimbursed. For that reason and based on the actions of the Senate two years ago, I do support the ought to pass motion.

Sen. KOROMILAS: Sen. Jacobson, could you provide the answer as to whether the person owned the property at the time the road was built?

Sen. JACOBSON: The Dukette's took over the property on March 30, 1961 and logged their complaint on August 7, 1961. The Highway Department did take a land taking beginning in 1959 although they couldn't detail exactly when the construction began. At the time that Mr. King was there, there was inadequacy in the machine but they have no way of verifying that. The important thing is that on November 6, 1961, the Department did take three samples from the well and did assume the responsibility for damage to that existing water supply.

Sen. KOROMILAS: Sen. Jacobson, did I understand you to say that even the artesian well is salty?

Sen. JACOBSON: That is what was reported to me by Mr. Humphrey, the Andover selectman, that they even found a little salt in there which could be expected from the very fact of the nature of the highway in relation to the property.

Sen. MORRISSETTE: It appears to me from the testimony that I have heard that this man is entitled to something because there was damage done to his well. Unfortunately, he didn't have too much of a well to start with. In my own experience over the last 22 years, I have come across hundreds of wells but as the year progresses, the water supply dwindles and you never have enough water for washing. I am hoping that this bill will go to Finance.

Sen. POULSEN: Mr. President, I rise in opposition to this motion. Mr. Dukette is apparently attempting to exchange a \$100 water system for a \$1750 water system. I think if this resolution was brought in for a lesser amount in the first place, it would have been accepted. I strongly urge against the motion of Sen. Jacobson.

Sen. LAMONTAGNE: I would like to add to my previous testimony that Mr. King also stated that the Dukettes bought the house from the Browns and it had a water point in the cellar. There was no dug well that had to be replaced. I had forgotten to mention that previously.

Sen. JACOBSON: Sen. Lamontagne, as a philosophical question, if in the past, the water was adequate and the highway has taken land, changed the contour, is it not a public responsibility to provide an adequate supply regardless of where it came from originally?

Sen. LAMONTAGNE: It has always been the policy of the State of New Hampshire to replace water for anyone who has an adequate water supply but at the same time, if a new highway is built and even after the construction, it has always been state policy to replace the well if they have, according to the present code, 250 million.

Sen. JACOBSON: How long was the point that you speak of?

Sen. LAMONTAGNE: I understand that it was down 12 feet.

Sen. JACOBSON: If I understand your response to my first question, it is the public responsibility to provide an adequate water supply regardless of how it develops — is that correct?

Sen. LAMONTAGNE: The state always replaces water supply if the person has water, but if there is no water to the property, then the state is not liable and therefore, does not replace any water systems.

Sen. JACOBSON: Is there any evidence that in 1961 that there was an inadequate water supply?

Sen. LAMONTAGNE: According to the report, yes, because they had replaced the water system of Mr. Dukette according to the findings.

Sen. JACOBSON: I believe I stated, in 1961, I know of no public works action. What action do you speak of?

Sen. LAMONTAGNE: I think that this action happened in 1962, but after that, both wells went dry in the month of September. The Department went back again and this was when

Mr. King went up there and discovered that there was not any adequate water prior to 1962.

Sen. JACOBSON: Did you say that it was prior to 1962 that they did not have an adequate water supply?

Sen. LAMONTAGNE: They did not.

Sen. KOROMILAS: Mr. President, I move that SJR 9 be recommitted to the Committee. I do this because I have listened to testimony and it appears to me that all of the evidence in this case has been a matter between the parties involved. I don't know that these people who did send the letter to Sen. Lamontagne actually appeared before the Committee. I am not sure that the president of the bank appeared before the Committee and I feel that the only way I can come to an independent judgment is to have the Committee have these people come in and testify and get the facts as they are.

Sen. LAMONTAGNE: Mr. President, I rise in support of the motion because this is what my chairman wanted to do in the first place after we talked with the bank this morning. There are two things that ought to be looked into: Walter Purinton's report and additional testimony.

Sen. JACOBSON: Mr. President, I rise in opposition to the pending motion. I think we debated long and far over this \$1800 item and if my motion should prevail and this motion is defeated, that testimony could be before the Finance Committee with the opportunity of getting some equitable solution. It has that prospect before it — if it does pass today and then we can take up the finance question.

Sen. NIXON: Sen. Jacobson, was the Highway Department given the opportunity to make its position known to you in detail with regard to its opposition to this resolution?

Sen. JACOBSON: I don't believe the Highway Department appeared at the hearing.

Question of recommitting SJR 9 to Committee.

Division vote: 8 Yeas, 13 Nays Motion lost.

Question on substituting "ought to pass" for "inexpedient to legislate."

Adopted. Referred to Finance.

HB 529

relative to the destruction and removal of boundary markers. Ought to pass. Sen. Poulsen for Public Works and Transportation.

Sen. POULSEN: Mr. President, HB 529, introduced by Rep. Bennett, was amended in the form of one word. The amendment only changes the word "negligently" — it removes it so it doesn't carry in the penalty. The bill, itself, changes the penalty for willfully or maliciously removing boundary markers. The bill is needed. There has been removal of boundary markers by bulldozer operators, road builders, and sometimes by malicious neighbors. We recommend its passage.

Adopted. Ordered to third reading.

HB 348

enabling the Department of Fish and Game to recover damages for loss of fish, other aquatic life, wildlife or their habitat due to water pollution. Ought to pass with amendment. Sen. Porter for Resources and Environmental Control.

AMENDMENT

Amend RSA 211:73 as inserted by section 1 of the act by striking out the same and inserting in place thereof the following:

211:73 Continuing Contamination. The director shall notify the water supply and pollution control commission or any other department of the state authorized by law to seek injunctive relief against water pollution if the contamination is a continuing offense.

Sen. PORTER: Mr. President, HB 348 provides for the Department of Fish and Game to recover damages due to pollution of water. The amendment deletes two sentences which were superfluous and were covered by existing statutes. The bill, itself, had a public hearing on 11 May. Relating to the unlawful discharge of contaminants, it provides for the liability of these damages. The Fish and Game Department sponsored this bill. There was no opposition to this bill.

Sen. ENGLISH: Does this mean that some existing factory or some existing polluting source is going to be involved in extensive litigations?

Sen. Porter: The question here is attributing damages to fish due to pollution from an industry or any source. If damages are found to exist, the Fish and Game shall investigate and take proper action.

Sen. ENGLISH: It doesn't reach back to something that previously existed?

Sen. PORTER: No, it doesn't.

Amendment adopted. Ordered to third reading.

SPECIAL ORDER OF BUSINESS AT 1:01

SB 138

to preserve the scenic beauty of town roads. (Requested by Sen. Poulsen)

Sen. PORTER: Mr. President, I move that SB 138 be re-committed to the Committee on Resources and Environmental Control. There has been a wide degree of divergence of opinion on the amendments proposed. The thrust of the bill is to provide for the preservation of scenic roads in the state. There are a few who do not agree that the amendments would reach this solution. We would like to have it back for further review and considerations.

Sen. POULSEN: Mr. President, I rise in support of the motion because there are parts of it that many of us feel are not applicable.

Sen. NIXON: Mr. President, as the sponsor of SB 138, I rise reluctantly in support of the motion. There are, however, some things that should be said with respect to the consideration of this bill. You will recall that it was scheduled for consideration by this body about a week and a half ago and was made a Special Order of Business for today at the request of those who felt they wanted more time to study it. Unfortunately, the interim time has been utilized by the Department of Public Works and Highways to spread, what I consider, some misinformation about this bill and its intent and probable effect which, in my judgment, almost constitutes an interference with the legislative process.

I was called last evening by a selectman in my town who apparently had been called, or had called at the request of the road agent of the town who had been contacted, in turn, by an

official of the Highway Department, about this bill. He apparently, from what was told to him, was under the impression that if SB 138 was acted upon favorably, it would hamper or limit the availability of state road equipment in respect to town roads. It would hamper, limit, or cancel altogether, the availability of state engineering assistance to and for the benefit of towns with respect to the improvement of roads, and it would also interfere with the amount and quality of "free advice" given by state officials to towns in the maintenance of roads. It would also jeopardize the summer maintenance program as voted by the towns.

I might say further that it was indicated to the selectman in my town that the Highway Department's poll of the Senate indicated that the Senate was about 11 to 11 on this bill. This was very interesting to me as the sponsor of the bill. I had not conducted a poll nor have I attempted to lobby any individual personally on behalf of this bill. I think it very interesting, and I am sure you are all interested to know, that your votes have already been counted by the Highway Department in respect to SB 138.

Please have in mind that this bill, if adopted, would not do the bad, bad things that have been represented about it. It would return to the people in the towns, through their duly elected selectmen, the ultimate decision as to how town road monies are to be expended in connection with the improvement of town roads. It would provide, for the first time, a statutory means of preserving the scenic beauty of many of our town roads now sacrificed to engineering recommendations involving the tearing down of stone walls and trees. It would permit a greater degree of traffic safety in respect to town roads in that our dirt roads that are scenic are not the ones where bad accidents are happening on, but the ones that are improved and become available for excessive speeds are the ones on which the accidents are happening. It would encourage the tourist attractiveness of our scenic roads in our towns and it would permit the retention of trees and stone walls so characteristic of our New England scenery; and give the people a voice in the road improvement procedure. It would prohibit or discourage edicts from the state or officials of the state as to exactly how roads must be improved and how wide they must be. It would do away with the unfortunate practice of "passing the buck", which

sometimes occurs in connection with the improvement of local roads whereby local officials indicate to the people involved that the state is dictating what must happen and the state indicates that the local officials control it.. It would also do away with the improvement of unnecessary roads or the construction of unnecessary roads — a foolish waste of taxpayers' money. It would do away with the prevalence of unsafe speedways which are now being constructed to some degree in our small towns.

Essentially, strange as it may seem, what is involved as the crux of this bill is whether or not, on the one hand, the people in the towns who pay the taxes, live there and use the roads, are going to have the ultimate say as to what kind of roads they want, where, and so forth, or whether those decisions are going to continue to be made in Concord by officials of the Highway Department who may not be responsive to local desires and wishes.

I am agreeable to recommit this for further consideration because from the first, when this bill was introduced, I sent advance copies to the Highway Department; I called them up and asked their advice, and *never*, other than appearing by a lone witness at the hearing to oppose the bill, has the Highway Department made its voice known in any affirmative way except the information I have received that road agents have been contacted and misinformation submitted.

Sen. GARDNER: Sen. Nixon, is it not true that the state contributes 85 percent of the funds used to improve these roads?

Sen. NIXON: The state contributes it but I understand that we contribute it, all of us in New Hampshire, in the first instance. Yes, it is taxpayer money but when you say that the state contributes it, it doesn't come from a tree or from some source other than the very people who live in these towns.

Adopted. SB 138 recommitted to Resources and Environmental Control.

PERSONAL PRIVILEGE

Sen. SPANOS: Mr. President, in today's *Manchester Union Leader*, there appears headlines that are somewhat disturbing to me as a legislator. I am not arising in order to defend the Speaker of the House because I am sure he is able enough to defend himself. I am not arising to defend the ad-

ministration either because it has its own spokesmen to defend the Governor and his programs. I don't even question the rather intemperate language used in the article. I think the majority of these things could have been said without utilizing demagogic histrionics.

However, what I am most definitely concerned about is this Chamber and my relationship with the body across the hall as it affects the efficient and orderly democratic process. I do not believe that it is within our right to tell the House what it should do in the evolution of its own legislative leadership or process.

I think it is demeaning to the House to intimate that they can be led like sheep or by storm troopers. I don't care who that person is that is doing the leading.

I rise because I want to make it perfectly clear that I, and I am sure some of the rest of you feel this way, that at least I have a greater respect for the membership of the House than the thoughts that have emanated from the pen of the senator from the Sixteenth District.

Sen. JACOBSON: Mr. President, I too was disturbed by the headlines today. I simply want to reaffirm that I stand in exactly the same position as my colleague from Newport stands. I believe each House has its own responsibility to care for and render its problems, whatever they may be. They should be settled by those who live in that house. I am most anxious that we have a cordial relationship with the members of the House for unless we do that, not only will there be angry voices, but the public interest will falter and fail on an issue that should not be.

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and when the Senate adjourns today, it be until tomorrow at 1 o'clock.

Adopted.

LATE SESSION

Third reading and final passage

HB 94, appropriating funds to assist the Lebanon Regional Airport Authority.

HB 206, relative to the director and deputy director of the New Hampshire Distributing Agency.

HB 207, relative to the control of radiation.

HB 211, to provide for treatment of minors for drug abuse without parental consent.

HB 288, relative to the development of services to aid the health and welfare of the citizens of New Hampshire.

HB 368, regulating the sale of hypodermic syringes.

HB 432, relative to the rabies control law.

SB 164, relative to license for sale of real estate where there are unknown heirs, or heirs under disability, or heirs whose whereabouts are unknown.

SB 187, relative to service of process against foreign corporations.

HB 180, relative to district courts.

HB 551, clarifying the duties of the deputy attorney general.

HB 529, relative to the destruction and removal of boundary markers.

HB 348, enabling the Department of Fish and Game to recover damages for loss of fish, other aquatic life, wildlife or their habitat due to water pollution.

Adopted.

Sen. Jacobson moved the Senate adjourn at 3:37 P.M.

Adopted.

Wednesday

19May71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

O GOD of light, in whom there is no darkness, whom to find is life, and who art changeless in a rapidly changing world; so that we may not lose our sense of direction and purpose, work within us that we may not forget why we are here and where we are going. Give us the insight to know that not everything old is bad, nor everything new is good; and, conversely, that not everything old is good, nor everything new is bad. In a world of continual change, impart to us wisdom, not only to discern and choose the good from the evil, but also to discern and choose the highest always in the less evident distinction of the good, the better, and the best. Grant that our highest choice may always be to love Thee and to do Thy will, for the sake of Him who came from Thee to us to do Thy will. Amen.

Pledge of Allegiance was led by Sen. R. Smith.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 248, relative to the future business of a person discharged as a bankrupt. (Morrissette of Dist. 16 — To Judiciary.)

SB 249, to establish trustee powers of building and loan associations, cooperative banks or savings and loan associations. (Smith of Dist. 15 — To Banks, Insurance and Claims.)

SB 250, to eliminate unfair insurance practices. (Spanos of Dist. 8 — To Judiciary.)

SB 251, requiring zoning ordinance changes to be voted upon by printed ballots. (Spanos of Dist. 8 — To Executive Departments, Municipal and County Governments.)

SB 252, requiring that motor vehicle manufacturers post a bond to guarantee warranties on new motor vehicles sold in

this state. (Koromilas of Dist. 21 — To Public Works and Transportation.)

SB 253, returning to local officials authority to decide whether to fluoridate public water supplies. (Smith of Dist. 3 — To Public Health, Welfare and State Institutions.)

SB 254, prohibiting candidates for office, other than election officials, from being present within the rail of a polling place. (McCarthy of Dist. 17; Porter of Dist. 12; Nixon of Dist. 9; Snell of Dist. 4; Morrissette of Dist. 16; Leonard of Dist. 13; Downing of Dist. 22; Townsend of Dist. 5 — To Executive Departments, Municipal and County Governments.)

SB 255, increasing the compensation of the pharmacy board and the fees payable thereto. (Smith of Dist. 15 — To Public Health, Welfare and State Institutions.)

SB 256, establishing a public defender system for Hillsborough County. (Leonard of Dist. 13; Porter of Dist. 12 — To Judiciary.)

SB 257, establishing qualification standards for the licensing of individuals doing electrical installations and making an appropriation therefor. (Ferdinando of Dist. 14 — To Public Works and Transportation.)

SB 258, relative to the budget and appropriations procedure for the Manchester water works and limiting the power of the Water Commission to extend said works outside the city. (Morrissette of Dist. 16; Provost of Dist 18; — To Public Works and Transportation.)

SB 259, requiring competitive bidding on all purchases by Hillsborough County. (Ferdinando of Dist. 14 — To Executive Departments, Municipal and County Governments.)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 506, changing part of the boundary line between the towns of Bartlett and Hart's location. (Executive Departments, Municipal and County Governments)

HB 583, to prohibit the use of trawls for the taking of fish from the ocean waters of New Hampshire. (Recreation and Development)

HB 689, providing that bow nets and dip nets may be used in certain rivers. (Recreation and Development)

HB 746, setting certain fees for notaries public. (Executive Departments, Municipal and County Governments)

HB 761, permitting the issuance of liquor permits to certain convicted felons upon approval of the Liquor Commission. (Ways and Means and Administrative Affairs)

HB 802, increasing the minimum wage. (Ways and Means and Administrative Affairs)

HB 819, setting minimum speed limits on certain highways. (Public Works and Transportation)

HB 670, to permit use by towns and cities of property acquired by tax collector's deed. (Executive Departments, Municipal and County Governments)

HB 672, requiring the disclosure of gasoline octane rating. (Public Works and Transportation)

HB 681, relative to the protection of motor vehicle purchasers. (Public Works and Transportation)

HB 690, providing a closed season for salt water smelt. (Resources and Development)

HB 736, authorizing bank officers to certify on mortgage applications the value of the property to be mortgaged. (Banks, Insurance and Claims)

HB 738, permitting banks to suspend business during emergencies and for other reasons. (Banks Insurance and Claims)

HB 805, relative to the color of highway yield signs. (Public Works and Transportation)

HB 839, relative to fees charged by the Hillsborough county register of deeds. (Executive Departments, Municipal and County Governments)

HB 843, authorizing emergency licenses in emergency situations for nursing home administrators. (Public Health, Welfare and State Institutions)

HB 704, authorizing the attachment of corporate securities. (Judiciary)

HB 705, relative to the date of expiration of legislative number plates. (Public Works and Transportation)

HB 755, relative to salaries of district court judges. (Judiciary)

HB 767, relative to witness fees for law enforcement officers. (Judiciary)

HB 800, providing for annual physical examinations for school bus operators. (Public Works and Transportation)

HB 837, providing insolvency protection to policy holders of life and health insurance. (Banks, Insurance and Claims)

HB 882, relative to the election of candidates and membership of the Mascoma Valley Regional School District. (Education)

SENATE CONCURRENCE ON HOUSE AMENDMENT TO

SB 18, relative to filing dates for nominations in certain cities and towns.

(See House Journal 18 May for amendment)

Sen. JACOBSON: Mr. President, I move that the Senate concur with the amendment as proposed by the House. SB 18, sponsored by Sen. Downing, had, as its purpose, the extension of the time for filing for municipal offices. The Senate amended this bill to make it so that those towns that were over 10,000 in population and also reduce the original bill from 30 days to 21 days. The House has further reduced it an additional 7 days. I checked with the sponsor and he is in agreement. There will now be a 14 day filing period if this bill passes.

Amendment Adopted.

ENROLLED BILLS REPORT

SB 92, authorizing law enforcement officers to require weighing of motor vehicles.

SB 129, relative to local parking ordinances.

Sen. Ferdinando
For The Committee

HOUSE CONCURRENCE

SB 129, relative to local parking ordinances.

HOUSE NON-CONCURRENCE

SB 52, establishing a medical advisory board in the Division of Motor Vehicles, Department of Safety, and making an appropriation therefor.

Sen. S. Smith in the Chair

COMMITTEE OF CONFERENCE REPORT

The committee of conference to which was referred HB 328, having considered the same reports the same with the following recommendations:

That the House recede from its position of non-concurrence with the Senate Amendment, and

That the Senate recede from its position in adopting its amendment, and

That the Senate and House each adopt the following amendment to the bill.

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

limiting the provisions of the New Hampshire Little Davis-Bacon Act to certain projects and equating the same with the federal act.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Limiting Application to Contracts Over Five Hundred Thousand Dollars. Amend RSA 280:1 as amended by 1957, 187:15; 1963, 286:1 and 1965, 287:1 by striking out the same and inserting in place thereof the following: 280:1 Regulation by Labor Commissioner of Contracts of Over Five Hundred Thousand Dollars.

The advertised specifications for every contract in excess of five hundred thousand dollars for the construction of public works by the state of New Hampshire, or by a county, municipality or district established by law which requires or involves the employment of mechanics, teamsters, chauffeurs and laborers shall contain a provision stating the minimum wages to be paid various classes of said employees which shall be based upon wages that will be determined by the labor commissioner to be prevailing for the corresponding classes of mechanics, teamsters, chauffeurs and laborers employed on projects of a character similar to the contract work in the city, town, village or other civil subdivision in which the work is to be performed and every contract based upon these specifications shall contain a stipulation that the contractor or his subcontractor shall pay hourly wages which are no less than the various rates so established during the life of the contract. This section shall also apply to regular employees of the state when such employees are employed in the construction, addition to, or alteration of said works for which special appropriations are provided. Payments by employers to health, welfare, pension, and/or other plans under collective bargaining agreements or understandings between organized labor and employers shall be included for the purpose of establishing prevailing wage rates as herein prescribed.

2 Determination. Amend RSA 280:2 as amended by 1963, 286:2 and 1965, 287:2 by striking out the same and inserting in place thereof the following: 280:2 Determination of Wages. The commissioner shall prepare, for the use of such public officials or public bodies whose duty it shall be to cause public works to be constructed, a list of the several classifications usually used on various types of public works upon which mechanics, teamsters, chauffeurs, and laborers are employed. The commissioner may revise such classifications from time to time as he may deem advisable. At least ten days before asking for bids the authorized officials or agency prescribing specifications shall

request the labor commissioner to determine the minimum wage rates as provided in RSA 280:1. The labor commissioner shall immediately determine the minimum wage rates to be paid in said area, and shall so notify any organization of employees or employers who shall have previously requested that such determined rates shall be furnished them. The labor commissioner shall also immediately furnish the determined minimum wage rates to any mayor, manager, or chairman of selectmen, in the area where such public works is to be constructed. In advertising or calling for bids for said works, when the awarding official, or public body, incorporates said schedule in the advertisement or call for bids by an appropriate reference thereto, he shall also furnish a copy of said schedule, without cost, to any person requesting the same. Any persons engaged in the construction of said works shall cause a legible copy of said schedule to be kept posted in a conspicuous place at the site of said works during the life of the contract. The aforesaid rates of wages in the schedule of wage rates shall include payments by employers to health, welfare, pension or other plans as provided in the preceding section, and such payments shall be considered as payments to persons under this section performing work as herein provided. An employer who provides payment of comparable benefits to its employees, other than as defined in the preceding section, may be given credit for same against determined wage rates by application to and authorization of the labor commissioner. Any employer engaged in the construction of such works who does not make payments to health, welfare, pension or other plans, or other comparable benefits recognized by the commissioner, where such payments are included in said determined rates of wages, shall pay the amounts of said payments directly to each employee engaged in said construction.

3 Members of Board Increased. Amend RSA 280:3 as amended by 1955, 323:1; 1957, 187:15 and 199:1 by striking out the same and inserting in place thereof the following 280:3 Appeal. Within fifteen days after such wage rates shall be determined in accordance with the provisions of RSA 280:1 and 2, such rates may be appealed by an association of employees or employers, any two citizens of the state, or any public awarding agency, such appeal to be heard before a board of five, constituted as follows: The governor and council shall appoint four members who are knowledgeable in matters concerning the

construction industry for a term of two years each. Organized employers and organized employees in the construction industry shall be represented on said board by one member each. The fifth member of said board shall be appointed by the first four members, and in case all four cannot all agree on the fifth member within thirty days their own appointment, said fifth member shall be appointed by the governor and council. The five members of the appeal tribunal shall be paid a fee of twenty dollars per day for each day of actual attendance of called meetings of the appeal tribunal and shall also be reimbursed for necessary travel and other necessary expenses. If while an appeal is pending any member of the appeal board, by reason of illness, absence from the state or otherwise, is unable to perform his duties, the governor shall appoint a person to act in his stead with respect to that appeal then pending. Upon the filing of an appeal hereunder, the appeal board shall fix a time and place for a public hearing thereon to be held not later than seven days after filing of the appeal, Saturdays, Sundays and holidays excepted; and the labor commissioner shall give written notice thereof to any public awarding agencies concerned, and to all interested associations and organizations of employers and employees in the construction industry deemed by him to be affected by the appeal. Within forty-eight hours after adjournment of the hearing, the board shall submit its decision in writing to the labor commissioner who shall forward copies thereof to all parties deemed by him to be interested in the appeal and affected thereby.

4 Federal Statute Controlling. Amend RSA 280 by inserting at the end thereof the following new section: 280:7 Applicability of Chapter. When applicable, the provisions of this chapter and wage determinations hereunder shall apply only to the same extent and in the same manner as the Davis-Bacon Act, P. L. 403 of the 74th Congress, as it presently exists or is later amended or otherwise affected by executive order.

5 Application to Existing Contracts and Invitations to Bid. The provisions of this act shall apply to all projects under construction or for which bids have been let prior to the effective date of this act until such project is completed.

6 Tenure of Board Members. The provisions of this act shall not affect the term of office of the incumbent members of the board provided for in RSA 280:3. The initial appoint-

ment of the two new members shall be for a term expiring on September 28, 1973.

7 Effective Date. This act shall take effect upon its passage.

Conferees on the part of the Senate:

Sen. Poulsen

Sen. Lamontagne

Conferees on the part of the House:

Rep. Trowbridge

Rep. Hanson

Rep. Coutermarsh

* * *

Sen. BRADSHAW: Mr. President, I move that the Senate adopt the Committee of Conference report on HB 328. HB 328 is undoubtedly a very familiar number to all members of the Senate. It has been referred to as dealing with the so-called Mini Davis-Bacon Act. You will recall that the Senate amended the House version so that we had exemption on projects of less than one half million dollars. It was further stated on the floor of the Senate that the intent was that we should be working with prevailing wage rates.

The Committee of Conference has worked this out so that we have the \$500,000 exemption. We have gone to the phraseology of the federal Davis-Bacon Act which does spell out prevailing rates. The bulk of the Committee of Conference report deals with changing the phraseology only so that it does conform with the federal Davis-Bacon Act and now, we have a law that is very similar in nature to that of the federal statute.

The other thing that was done by the Committee of Conference was to change the Appeals Board. At the present time, it is a three member board. If you adopt the Committee of Conference report, which I urge you to do, it will set up a five member Appeals Board — four to be chosen by the Governor and the fifth to be selected by the four appointees, which is basically the same type of structure that was used under the original law. This Committee of Conference report is the result of extensive negotiations or conferences with members of the House, with labor interests and I think it is safe to say that probably nobody

is 100 percent happy with any version of such a measure, but I do think that we have worked out something that everybody can live with and I hope that the Senate will adopt the Committee of Conference report.

Sen. SPANOS: Mr. President: With great reluctance and with some reservations, I rise in support of the Committee of Conference report on House Bill 328.

One of the new ingredients in the bill is the addition of 2 new members to the Appeals Board to be appointed by the Governor. This is an obvious "watering down" of the working man's rights under the previous law.

I sincerely hope that the Governor, when he makes these two appointments, will not, in fact, end up repealing the "Little Davis-Bacon Act" by making appointments of individuals who are so biased in their self-interests as to render their judgments unfair and unreasonable.

Adopted.

HOUSE ADOPTION OF COMMITTEE OF CONFERENCE REPORT

HB 328, repealing the statute providing that the Labor Commissioner shall establish the minimum wages paid by the state and its political subdivisions in the construction of public works and enacting an anti-kickback in public works statute.

ANNOUNCEMENTS

Sen. BRADSHAW: Mr. President, I wanted to enlighten the members of the Senate that the Committee of Conference on the Joint Rules has met and we do have a Committee of Conference report. It is in the process of being reproduced and hopefully will be available to each of you before you leave today. There are no earth-shaking changes in the proposed Joint Rules, but it is our hope that we will be able to adopt Joint Rules tomorrow. It is further the intent of the Senate Rules Committee to come before you tomorrow with the idea of starting a four-day week on the first day of June and continuing through Friday. The second week in June, we would begin on Monday and run through Thursday. It is further our intent to come before you tomorrow with a cut-off date on introducing legislation of May 27 — that will give you one week from tomorrow

to clean up all bills that you may be thinking about for introduction.

My only purpose in standing here and telling you this today is to give you a little advance notice so that if anybody does have some particular thoughts on this, we might be able to work it out prior to our session tomorrow and that we could have adoption of the Joint Rules and get on with the business at hand.

I would also like to point out that there are some 330 bills in Senate Committees at the present time. The Joint Rules call for a cut-off date of action by the originating body on June 10. I would suggest to all that are interested in any Senate bills that you see that the Committee takes expeditious action on those bills because at the end of the session on June 10, those bills will be dead, if we adopt Joint Rules.

Sen. Bradshaw in the Chair.

COMMITTEE REPORTS

SB 166, amending the 1969 appropriation relative to capital expenditures at Franconia Notch State Park. Ought to pass with amendment. Sen. R. Smith for Finance.

AMENDMENT

Amend the bill by striking out section two and inserting in place thereof the following:

2 Effective Date. This act shall take effect upon its passage.

Sen. R. SMITH: Mr. President, all the amendment does is to change the effective date from 60 days after passage to effective upon passage. SB 166 makes a slight change in the language of one section of the 1969 Capital Appropriations Act. It does not change, in any way, the amount of money in that section. This concerns the replacement of a T-Bar on Cannon Mountain. The Comptroller has ruled that under the existing language, the T-Bar can only be replaced by another T-Bar. The Parks Division has said that they would do better with a double chair lift and have requested this change in the language in order to replace the T-Bar with the double chair lift.

Amendment adopted. Ordered to third reading.

SB 95

abolishing the office of research analyst to Senate Finance Committee and removing any reference to that office in the RSA. Ought to pass. Sen. R. Smith for Finance.

Sen. R. SMITH: Mr. President, SB 95, introduced by the distinguished senator from the Seventh District, deletes reference in the RSA to the office of research analyst to the Senate Finance Committee. This is a position that is no longer utilized. There was an incumbent at one time who I believe to be Mary Parsons. Since Mary Parsons retired, the position was never filled, nor used. Much of the duties have been taken over by the Legislative Budget Assistant's Office and the Office of Legislative Services.

Adopted. Ordered to third reading.

Sen. JACOBSON: Mr. President, I move the introduction of a Senate Resolution.

SENATE RESOLUTION

Whereas, there is presently pending before the Senate, House Bill 189, An Act 'authorizing the general court to provide for the time and mode for submitting constitutional amendments proposed by it to the voters', and

Whereas, the Constitution of New Hampshire, Part Second, Article 100 provides that the Senate and House of Representatives may propose amendments to the Constitution by a three-fifths vote of the entire membership, and

Whereas, Section 1 of the bill provides that the General Court shall prescribe the time and mode of submitting such amendments to the voters for their approval, and

Whereas, questions have been raised concerning the constitutionality of said bill, now therefore be it

Resolved, that the Justices of the Supreme Court be respectfully requested to give their opinion upon the following questions of law:

1. Can the General court enact a statute by a simple majority vote, which authorizes the General Court to prescribe the time and mode for submitting constitutional amendments to the voters?

2. In establishing the time and mode for submitting an amendment to the voters, is a simple majority vote of both houses sufficient or is a three-fifths vote of each house required?

Be It Further Resolved, that the President transmit seven copies of this resolution, and House Bill 189 to the Clerk of the Supreme Court for consideration by said court.

SUSPENSION OF THE RULES

Sen. JACOBSON: Mr. President, I move that rules of the Senate be so far suspended as to allow action on the Senate Resolution at the present time.

Adopted.

Sen. JACOBSON: Mr. President, I move that the Senate Resolution ought to pass. HB 189, which now rests in the Committee on Executive Department, Municipal and County Governments, has, as its purpose, the procedure of setting the time and mode of constitutional amendment proposed by the Legislature at a different stage in the process from what has been the accepted practice so that if HB 189 should become law, the Legislature would pass the amendment on the three-fifths rule and then, at a subsequent time, establish the time and mode for presenting these questions to the people on a ballot.

The question has arisen whether or not this can be done on simple majority vote or whether it will require the constitutional provision of three-fifths vote of both Houses in terms of their entire membership. I had a long talk with Mr. Richard Upton and he thought there was a serious question in this matter. Before we take any final action on constitutional amendments in this matter, it was felt that it should be clear, either positively or negatively, with the Supreme Court because otherwise, the question would hang and we could have the conceivable circumstance where, in fact, an amendment has passed by the required two-thirds vote of the people voting and then be lost on a technicality that we did not follow constitutional procedure. That is the reason for this resolution.

Sen. KOROMILAS: Sen. Jacobson, do I understand the purpose of this particular resolution to be that the Supreme Court will decide whether 60 percent of each House has to vote in the affirmative on a constitutional amendment with respect to time and mode?

Sen. JACOBSON: With respect to that — yes.

Sen. KOROMILAS: Now, assuming that both Houses did pass by 60 percent, would this time and mode concept have to go to the elective in a referendum question?

Sen. JACOBSON: No.
Resolution adopted.

SB 191

relative to abandoned boats. Ought to pass. Sen. Morrisette for Recreation and Development.

Sen. MORRISSETTE: Mr. President, SB 191 is a simple bill permitting the removal of boats that have been abandoned on waterways and ponds for litigation.

Adopted. Ordered to third reading.

HB 255

to increase the discount for resident purchasing season ski tickets. Ought to pass. Sen. Koromilas for Recreation and Development.

Sen KOROMILAS: Mr. President, HB 255 merely allows increase of the discount for season passes for skiers for Mount Sunapee and Cannon Mountain. At the present time, we have a 20 percent discount if you give it to the residents of the State of New Hampshire. All this bill does is to allow Recreation and Development to give 25 percent discount on season passes at Mount Sunapee and Cannon Mountain. In that connection, there was an amendment sponsored by the Commissioner of DRED which would have the effect of wiping out the discriminatory clause in our state. That discriminatory clause said that you cannot give a larger discount to people outside of the state than you can give to the people inside the state. The Committee felt that this is a House bill. We also felt that if such an amendment should be put on, it should be put on a Senate bill that would have a hearing on both Houses rather than on a House bill and have one hearing in the Senate.

Sen. SPANOS: Mr. President, having part of Mount Sunapee in my district, I rise in full support of this measure.

Adopted. Ordered to third reading.

HB 684

providing that a helper may set or haul lobster and crab traps only in the presence of and aboard a boat belonging to a licensed lobsterman. Ought to pass. Sen. Koromilas for Recreation and Development.

Sen. KOROMILAS: Mr. President, HB 684 would require that when a person comes on a boat because the boat owner has a helpers license, the boat owner has to be present when the helper comes on to help. The owner of the boat buys the helpers license. Of course, anybody can come on the boat under this helpers license; it is not given to one person. What this bill would do would require that when the helper comes aboard the boat, that the owner of the boat be on the boat so that the helper cannot do the boating himself.

Adopted. Ordered to third reading.

HB 799

relative to the Board of Arborists. Ought to pass. Sen. Porter for Recreation and Development.

Sen. PORTER: Mr. President, HB 799 deals with the Board of Examiners of the State Entomologist. The bill essentially deletes two or three words in the RSA's which presently exist. It deletes the words, "at the Agriculture Experimental Station." That is the only change in the bill and refers to including the State Entomologist with the other members of the Board of Examiners.

Adopted. Ordered to third reading.

SPECIAL ORDER OF BUSINESS AT 1:01

HB 276

relating to conservation officers of the Fish and Game Department. (Requested by Sen. Porter) Ought to pass with amendment. Sen. Koromilas for Recreation and Development.)

Sen. KOROMILAS: The amendment of the bill removes two categories — trespass on posted land and motor vehicles blocking private ways. The most significant part of the bill is XXIV which is as follows: "to have an exercise of powers and privileges granted by RSA 594 as to matters within their jurisdiction under this section." RSA 594 is the general statute that gives protection to the police officer when he makes an arrest. If he makes an arrest and he has probable cause to do so, then

you cannot sue him for false arrest even though he was wrong in arresting. If an ordinary person attempts to make a civil arrest and he is wrong, he is subject to false arrest. To me, the most important aspect of this particular bill is to give the conservation officer this particular protection, not only with respect to the four new sections that are added to his power, but to the other ten that are now in the present law. Before, he never had this protection. This bill does give the conservation officer that protection that a police officer has.

What the amendment does is to take out the words, "trespass on posted land and motor vehicles blocking private ways." This granted power that the bill initially had, the Committee felt we should take out for the following reasons: on trespass on posted land, this would require that if a conservation officer were going by posted land and he saw certain people on that land, he would have to arrest them. Secondly, with respect to motor vehicles blocking *private* ways, if this amendment were not made, a conservation officer would have the right to impound, remove, arrest any person who had his car in a private right-of-way. What we are doing here is to take away what the Department of Fish and Game requested that they do have the right to arrest and have all the protections that every police officer has with respect to trespass on posted land and automobiles blocking right-of-ways.

Sen. PORTER: Mr. President, I rise in opposition to the amendment. The bill was heard by the Committee and I was not able to be at the Executive Session or I would have opposed it at that time. Today, the Fish and Game Commission has the powers of conservation officers for several different portions of their duties. These included to enforce the laws, execute warrants, serve subpoenas, carry firearms, arrest without a warrant, stop and search without a warrant, secure and execute search warrants, seize and take possession of all fish and game illegally taken, seize fishing tackle, guns and so forth, and to caution persons of the dangers of forest fires.

The bill which was brought in which was also a Fish and Game Commission sponsored bill expanded this authority in four more areas. From a subsequent letter from the Fish and Game of mine deals with improving the trespass of posted land and motor vehicles blocking private ways. The amendment would delete that particular section and I believe that the in-

tent of the legislation and the bill as such was that it should be left in there. For that reason, I stand opposed to the amendment and urge my colleagues to also be opposed.

Sen. POULSEN: Mr. President, I also rise in opposition to the amendment. I think that in many small towns, there are no protections against trespass on posted lands except through a game warden. I believe the amendment should be removed and the bill put in as it was originally.

Sen. MORRISSETTE: Mr. President, I rise in support of the Committee Report. As a Committee member, I felt that he might be cruel to arrest somebody for blocking a private way.

Sen. S. SMITH: Mr. President, I would like to stand in opposition to the amendment in that the point was made that this was possibly expanding the police powers. There are many areas, particularly in the North Country, where there are no police available to enforce these rules and regulations regarding fields, passage way in the woods and so forth. Therefore, I rise in opposition.

Sen. KOROMILAS: Are you aware that by giving this grant of power to the conservation officer, that he can arrest people in the non-hunting season?

Sen. S. SMITH: This may be, but there are many areas within the state, particularly, as I have indicated, in the northern part of the state, where cars are found parked in entrances to fields and areas of this nature where it is very difficult to get anyone to handle the moving of these vehicles.

Sen. KOROMILAS: Are you suggesting that the towns in this state and in your particular area do not have constables and police officers that could take care of these problems?

Sen. S. SMITH: Some do, many have part-time police officers who may be involved in other duties or other jobs earning a living much of this time.

Sen. KOROMILAS: With respect to motor vehicles blocking private ways, are you aware that once a person has the power to arrest, he can also remove the vehicle?

Sen. S. SMITH: I believe this is correct.

Sen. KOROMILAS: Mr. President, I oppose the motion

made by the distinguished senator from the Twelfth District. I think what is involved is that we are giving the conservation officer added duties that pertain to his function. We are only taking up two items — he doesn't have the power to act in situations which pertain to trespass on posted land and motor vehicles blocking private ways. We are giving the conservation officer many other powers such as investigating vandalism and malicious damage to property and livestock, the use and transportation of firearms for hunting, bob houses, boats, dogs at large, breaking and entering and larceny in remote areas, protection of the environment, littering and dumping. We have also given him the power to conduct search and rescue operations in woodlands and to provide security for those places. We will also give him the protection that the police officer has.

It seems to me that the conservation officer has duties and what is going to happen is we add these two duties of trespass on posted land and the blocking of private ways by motor vehicles. In the non-hunting season, the conservation officers are going to do with everything because they have the power. Secondly, conservation officers have other things to do during the hunting season and that is mainly to protect the man and the game in the woods rather than worrying about a private driveway.

For these reasons, the Committee recommends that the amendment be adopted.

Sen. POULSEN: Mr. President, I wish to point out that a game warden's duties are to protect game and hunters, but also to protect the land owners on whose land the hunting is being done or not being done, depending on whether or not it is posted. Without the right to remove people or arrest them, these people's rights would not be protected.

Sen. MORRISSETTE: Sen. Poulsen, are you aware that an awful lot of people take rides out in the country and may drive into the pathways to enjoy the woodland? Don't you think it would be cruel to start towing these cars away?

Sen. POULSEN: I don't believe that any game warden would be fooled by a car belonging to people picking flowers. They know what the problem is and would handle it appropriately.

Division vote: 7 Yeas, 8 Nays. Amendment lost.

Question on HB 276.

Adopted. Ordered to third reading.

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock.

Adopted.

LATE SESSION

Third reading and final passage

SB 166, amending the 1969 appropriation relative to capital expenditures at Franconia Notch State Park.

SB 95, abolishing the office of research analyst to Senate Finance Committee and removing any reference to that office in the RSA.

SB 191, relative to abandoned boats.

HB 255, to increase the discount for resident purchasing season ski tickets.

HB 684, providing that a helper may set or haul lobster and crab traps only in the presence of and aboard a boat belonging to a licensed lobsterman.

HB 799, relative to the Board of Arborists.

HB 276, relating to conservation officers of the Fish and Game Department.

Adopted.

Sen. Poulsen moved the Senate adjourn at 2:35 o'clock.

Adopted.

*Thursday**20May71*

The Senate met at 1:00 o'clock.

A quorum was present.

Prayer was offered by Guest Chaplain, Rev. Gordon L. Johnson of the Barnstead Congregational Church in Barnstead, New Hampshire.

INVOCATION

O Gracious God, Thou who art the Eternal Father — Creator and Divine Leader; we would pause at this moment to reflect on Thee; acknowledging Thy existence and prayerfully requesting Thy guidance this day.

Grant, O Loving Father — to these men and women here present; infinite wisdom and unselfish thoughts as they prepare to do the work before them. May O God, the legislation they discuss and debate, the conclusions they reach be formulated by good hearts — clear minds and kind and honest words.

May Thy presence in these chambers — this day — be a constant reminder of the necessity of wise decision — clarity of thought and sincerity of purpose in all laws concerning life.

May Thy blessings be upon us — from the highest to the lowest servant of our wonderful state.

Thank You, — God for listening — Thank You, — God for reminding us that it is You — not we who control the future of all that is and shall ever be. Amen.

Pledge of Allegiance was led by Sen. Lamontagne.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 260, to authorize the Labor Commissioner to set standards to assure safe and healthful working conditions for working men and women; to permit this state to maintain the highest degree of autonomy and at the same time take advantage of

available financial assistance from the federal government; and to provide for research, information, education and training in the field of occupational safety and health. (Koromilas of Dist. 21 — To Ways and Means and Administrative Affairs.)

SB 261, providing for reciprocity in motor vehicle citations. (Lamontagne of Dist. 1 — To Judiciary.)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 380, providing for procedures for hearings and elections relative to management-employee relations in state employment. (Ways and Means and Administrative Affairs)

HB 747, to enlarge the powers of medical service corporations. (Public Health, Welfare and State Institutions)

HB 753, eliminating the biennial referendum on sweepstakes on the ballot. (Executive Departments, Municipal and County Governments)

HB 796, relative to the display of the New Hampshire State flag. (Executive Departments, Municipal and County Governments)

HB 818, expanding the discretion of the Attorney General in administering the land sales full disclosure act. (Judiciary)

ENROLLED BILLS REPORT

HB 328, limiting the provisions of the New Hampshire Little Davis-Bacon Act to certain projects and equating the same with the federal act.

HB 368, regulating the sale of hypodermic syringes.

HB 94, appropriating funds to assist the Lebanon Regional Airport Authority.

HB 206, relative to the director and deputy director of the New Hampshire distributing agency.

HB 288, relative to the development of services to aid the health and welfare of the citizens of New Hampshire.

HB 432, relative to the rabies control law.

HB 529, relative to the destruction and removal of boundary markers.

HB 551, clarifying the duties of the deputy attorney general.

Sen. Ferdinando
For The Committee

HOUSE CONCURRENCE

SB 44, relative to the time the school census shall be taken and repealing the statute dealing with school boards visits to schools.

HOUSE CONCURRENCE TO SENATE AMENDMENT

HB 211, to provide for treatment of minors for drug abuse without parental consent.

HOUSE NON-CONCURRENCE

SB 114, increasing the penalties for reckless operation of a motor vehicle.

REQUEST FOR COMMITTEE OF CONFERENCE

On motion from Sen. Nixon, the Senate voted to accede to House request for a Committee of Conference on

HB 180, relative to district courts.

The Speaker appointed as members of said Committee on the part of the House, Reps. Andrews, Palmer and Drabinowicz.

The President appointed as conferees on the part of the Senate, Sens. Jacobson and Lamontagne.

HOUSE REQUEST FOR RETURN OF BILL

HB 755, relative to salaries of district court judges.

Sen. NIXON: Mr. President, I move that the Senate accede to the House request for the return of HB 755. The reason for this request is that an amendment which has been adopted in due form by the House Judiciary Committee did not find it-

self in the final printed amendment and they would like to correct the record so far as they are concerned before the bill gets back over to us.

Adopted.

REQUEST FOR COMMITTEE OF CONFERENCE

On motion from Sen. Porter, the Senate voted to accede to House request for Committee of Conference on:

HB 348, enabling the Department of Fish and Game to recover damages for loss of fish, other aquatic life, wildlife or their habitat due to water pollution.

The Speaker appointed as members of said Committee on the part of the House, Reps. Oleson, Hunt and Chamberlin.

The President appointed as conferees on the part of the Senate, Sens. Porter and McCarthy.

SENATE ADOPTION OF ENROLLED BILLS AMENDMENT

HB 272, requiring fishways to be built on certain dams. Ought to pass with amendment. Sen. Provost for the Committee.

AMENDMENT

Amend RSA 211:8 as inserted by section 1 of said bill by striking out line 5 and inserting in place thereof the following:
of fish except as provided in RSA 211:8-c.

Amend section 3 of said bill by striking out the first two lines and inserting in place thereof the following:

3 Inspection by Director. Amend RSA 211 by inserting after section 8-a the following new section: 211:8-b Inspection. The director or his representative

Further amend section 3 of said bill by striking out in line 6 the words "this section" and inserting in place thereof the following:

section 8-a.

Amend section 4 of said bill by striking out the first two lines and inserting in place thereof the following:

4 Exception. Amend RSA 211 by inserting after section 8-b the following new section: 211:8-c Federal Power Commission. The provisions of RSA 211:8-a

Amend said bill by striking out section 5 and by renumbering section 6 to read section 5.

Amendment adopted.

COMMITTEE REPORTS

HB 467

relative to intoxicating beverages at interscholastic athletic contests. Ought to pass. Sen. Tufts for Education.

Sen. TUFTS: Mr. President, the Senate Committee heard testimony which indicated that there was some problem with adult spectators at interscholastic athletic contests whom the police were, at times, reluctant to remove from the premises. A good case was made by several varying types of citizens, coaches, athletic officials, (basketball principally, but some hockey) and the indications were, to the Senate Committee, that this was a bill that had great merit and that we would want to see the law put on the books which would allow special policemen or regular policemen to remove these adults who have become a little exuberant and over voracious and cause problems at these interscholastic events.

Adopted. Ordered to third reading.

SUSPENSION OF THE RULES

Sen. ENGLISH: Mr. President, I move that the rules of the Senate be so far suspended as to allow the introduction of a committee report without a public hearing.

This is a non-controversial bill. It came to the Senate Education Committee not from an Education Committee in the House and I think Sen. Tufts can explain the bill.

Sen. TUFTS: In previous sessions, I have had the opportunity to speak about the amending of the charter of Exeter Academy and this occasion of St. Paul's School is somewhat similar. To simplify it, this mostly pertains to increasing the total number. For instance, in one portion of their charter, they wish to go from 15 to 20 members. This refers solely to the charter of this fine educational institution here in Concord, St. Paul's School and they wish, in this day and age, to have a

few more members on their board so that they may handle the increased problems which our schools are encountering, both public and private.

Adopted.

HB 682

to amend the charter of St. Paul's School. Ought to pass. Sen. Tufts for Education.

Sen. TUFTS: Mr. President, I have nothing to add from what I previously stated.

Adopted. Ordered to third reading.

HB 739

clarifying the law relative to the board of trustees of New Hampshire colleges and equalizing the expiration dates of appointed university trustees. Ought to pass. Sen. English for Education.

Sen. ENGLISH: Mr. President, HB 739 clarifies the law relative to the board of trustees of New Hampshire colleges. The Sponsor of the bill, Rep. Clark of Strafford and Rep. Weeks felt that this bill would improve the organization of the board of trustees. It was supported by Philip Dunlap. He spoke in favor and there was no opposition to the proposed changes.

Sen. SPANOS: Is HB 739 the bill which adds the student member to the trustees university system?

Sen. ENGLISH: The two bills are closely related. The next one on the list is the one that adds the student.

Adopted. Ordered to third reading.

HB 751

clarifying the law relative to the board of trustees of New Hampshire colleges and providing for a student member thereof. Ought to pass. Sen. English for Education.

Sen. ENGLISH: Mr. President, HB 751 has considerable similarity to HB 739 which has just been presented to the Senate. Specifically it provides that one member of the board of trustees shall be a student appointed by the Governor with the advice and consent of the Council.

Sen. MORRISSETTE: I would like to strongly support this bill. I have testified on three or four occasions regarding

my desire to have young adults participate in activities involving government wherever possible.

Sen. SPANOS: Mr. President, I rise in support of HB 751. I do so because I feel very strongly that the student body would be represented in the council of trustees who determine the future development and programming of the university system. Frankly, I feel that it will help to eliminate some of the problems that have arisen in the past relative to student-faculty-university-community relationships. I urge support of this measure.

Sen. NIXON: Mr. President, I rise in support of HB 751. Last Spring, I attended the Citizens' Day at the invitation of the students at UNH Oberon Campus in respect to which many students voiced their disillusionment with our process and our institutions generally. I recall the day specifically because the newspapers the next day said no legislator of any consequence attended any of the proceedings. But, this was one of the areas that the students were most concerned about and that was having a greater voice in the policy decisions of the University. This bill would be a small step in that direction and it has my support.

Sen. S. SMITH: Mr. President, I also rise in support of this bill. I feel that it is an important aspect to the whole university family system. I have watched with interest in my home town the responsibility, the actions of students taken while at the University and I urge the Senate to support it.

Roll call requested by Sen. Koromilas.

Seconded by Sen. Marcotte.

Ayes: Sens. Lamontagne, Poulsen, S. Smith, Snell, Townsend, Gardner, Spanos, Nixon, English, Porter, Leonard, Ferdinando, R. Smith, Morrissette, McCarthy, Provost, Brown, Marcotte, Koromilas, Downing, Tufts.

Result. 21 Ayes, 0 Nays.

Adopted. Ordered to third reading.

(Sen. S. Smith in the Chair)

SB 202

prohibiting state police officers from using police cars for personal matters. Inexpedient to legislate. Sen. Lamontagne for Public Works and Transportation.

Sen. LAMONTAGNE: Mr. President and members of the Senate, the Committee on Public Works and Transportation voted the matter prohibiting State Police officers from using State Police cars for personal matters as "inexpedient to legislate." Our Committee felt that prohibiting such cars from being used could be very expensive in funds and, at the same time, decrease services, giving as an example, accidents occurring either late at night or early in the morning. The officers would have to take their cars to the barracks in order to pick up a cruiser. This would decrease services to the people and would be a waste of valuable time.

There were many other reasons why the Committee felt that this type of legislation would be harmful. After all, the officers are on duty 24 hours a day and subject to call at all hours. These were our reasons that this bill be "inexpedient to legislate."

Sen. KOROMILAS: I am looking at the bill. Am I correct in including that the first sentence of the bill, "no uniformed employee of the Division of State Police shall use any state owned vehicle for other than official business." Is that the law today — that a person who works for the State Police cannot use his cruiser for his own personal business?

Sen. LAMONTAGNE: I don't know whether or not it is the law today, but the only thing I know is that the officer is on duty 24 hours a day, whether he is in uniform or not.

Sen. KOROMILAS: Is your answer to me that because a state policeman has the car for 24 hours, that he can use it for personal business?

Sen. LAMONTAGNE: An officer, once he takes the car, he must report that he is using the car and must keep his radio on so that he may be contacted in case of any emergencies.

Sen. KOROMILAS: Is your answer to my previous question, that so long as a policeman in the State police keeps his radio on, that he can use it for personal business and use?

Sen. LAMONTAGNE: Yes.

Sen. DOWNING: Senator, it seems to me quite clear at the hearing that the current policy was stated that the State Police cannot, in fact, use the cruisers for personal use except in an

emergency. When that emergency arises, they have to go on the air and check with headquarters instead of having the radio on at all times.

Sen. LAMONTAGNE: It is my understanding from the hearing, and I was at the hearing and understood the officer when he spoke and I have done some investigating and I have found that these State Police cars, when used for personal use, have the radio turned on immediately.

Sen. DOWNING: I was at the hearing also and it seemed that what you are stating is a policy which was under the previous Commander Casswell and that the policy that the lieutenant testified to today was that, in fact, the officers are not permitted to use the cars for personal use except in emergency, although he felt that there shouldn't be any objection to personal use because they would have that many cruisers available and on the air at any given time.

But, the policy presently is definitely not for personal use except in emergency. He cited a recent emergency where a trooper's wife had a problem, had to be rushed to the hospital and his own car wouldn't start. He had to call in and get permission to use the cruiser to take his wife to the hospital and he had to be on the air at all times.

Sen. LAMONTAGNE: The statement that you just said is true and I remember that the matter did come up before our Committee. Although I personally feel that since the officer is on duty 24 hours a day, I see no harm in his using the car for personal use.

Sen. POULSEN: Did you understand that the use of the word "personal use" had to do primarily with taking the car home at night at the end of the day, then telephoning in to headquarters where he is located so he could be reached by telephone?

Sen. LAMONTAGNE: Definitely.

Sen. MORRISSETTE: I would like to speak on this bill. I feel bad that it was reported "inexpedient" so fast. This bill was heard only two days ago and I wanted to withdraw the bill rather than have it come in as "inexpedient." I did have legitimate reasons to introduce the bill. I had been asked by some people to investigate this matter with regards to the cost. I came

up with a savings of 110,000 if we eliminated the personal use of these cars. I was hoping that this saving could be used to employ eight or ten additional troopers and thereby do a better job of fighting crime. It was brought up at the hearing that the prime reason was the saving and due to the fact that there was a limited restrictive fund department, the money would stay there and could be used. There are states which do not permit the cars to be used for personal use. I do not agree that they are not used for personal use — they are. I spoke with Mr. Regan early this morning and told him that my intent was to withdraw the bill. I did conclude that the harm might be greater than the saving of \$110,000. I hope my colleagues will not think wrong of me in introducing this bill. It was done with economy in mind, knowing that the funds were restrictive and it could be put to other use.

There was a second factor involved regarding the abuses of the cars. I have personal knowledge of the abuses. One case concerned a state trooper on duty who was working at home during the time that he was on duty. I admit that he had the door of the car open and the radio on, but if he is supposed to be on duty, say 20 miles away and he gets a call, it does take time to reach his destination. These abuses are a minor consideration. I have confidence in the Department that they minimize these abuses. There are always abuses in anything.

In closing, I felt that we would be better off with eight or ten additional troopers.

Sen. DOWNING: Mr. President, I rise in support of the Committee Report and I feel that some of the testimony that the Senate has heard today might be misleading. First of all, it was one, single abuse that was offered in testimony before the Committee at the time of the hearing and that could very well been a conflict of personality rather than a real abuse. In any case, the abuse was never actually reported to the authorities. Also, I think that a fact has been introduced here for a possible saving of \$110,000 is equally misleading. There was no evidence offered to support that fact. Without validation of this type of information, the Committee recommended "inexpedient" and I support that report.

Sen. KOROMILAS: Sen. Downing, is it not the policy of the State Police not to have these vehicles used while the trooper is on personal business?

Sen. DOWNING: The current policy is for the troopers not to use these vehicles for personal use. The only exception to this is in a state of emergency for which he must get permission and his vehicle must be on the air.

Sen. KOROMILAS: Mr. President, for the record, I want to state that I support the Committee's report. I couldn't believe, from the previous testimony, that there was not a policy on the part of the State Police that cruisers should not be used for personal business. Since that is the policy of the State Police, I support the Committee Report.

Resolution adopted.

SB 207

providing that front license plates on motor vehicles shall be illuminated at night. Refer to Legislative Study Committee. Sen. Downing for Public Works and Transportation.

Sen. DOWNING: Mr. President, the hearing on SB 207 indicated that there could be some merit to having a lighted front number plate. However, the mechanical device used to accomplish this (there was one device that was suggested which is a patented device) raises the question of practicality. Number one, there doesn't seem to be a universal mounting plate for it and number two, there seemed to be a question that it might be a conflict with the federal safety requirement for the manufacturer's design of the motor vehicle. The Committee felt that this bill would be better off with further study and therefor referred it to the Legislative Study Committee and I urge your support.

Resolution adopted. Referred to Legislative Study Committee.

SB 210

enlarging the conditions under which federal or state aid projects may be pre-financed and extending the term of borrowing for the same to five years. Ought to pass. Sen. Lamontagne for Public Works and Transportation.

Sen. POULSEN: Mr. President, SB 210 has been introduced to help towns become financed, particularly under the building of sewer projects. It does several things. Number one, at the suggestion of counsel, it uses the words, "may reasonably expect to receive an amount of federal aid." That was necessary in the financing. In the second place, it allows short-term notes

so that towns don't have to go to bonding in the initial stages. These short-term notes can be anything under five years and increased five years before final bonding is instituted.

The third feature it does is to fill in a reimbursement to the state of monies advanced to towns by the federal government. The federal government has to pay the money to the towns rather than to the state if the same money has been financed previously by the state. We urge its passage.

Adopted. Ordered to third reading.

(Sen. Bradshaw in the Chair)

ANNOUNCEMENT

The CHAIR wishes to announce an additional committee referral on SB 217, an act relative to the establishment of an electric power plant and major transmission site in the construction and licensing procedure. It has been referred to the Committee on Public Works and Transportation and we are adding the Committee on Resources and Environmental Control — two committees acting as a joint committee.

HB 439

relative to extending the service fee on air carriers to all public landing areas supported, in whole or in part, by state and municipality or airport authority funds and to allocate said fees between the state and municipalities or airport authorities. Ought to pass. Sen. Poulsen for Public Works and Transportation.

Sen. POULSEN: Mr. President, HB 439, introduced by Rep. Coutermarsh, straightens out an error that was actually made two years ago in the laws having to do with enplaning fees. At that time, there were two statutes, one dollar for claims of one size and 50 cents for smaller claims. Also, some of the money went directly to the airports and some went to the state Aeronautics.

Under this new bill, the smaller claims are ignored as they are already under one statute. Under the features of this bill, the dollar claims, the money is returned to the Commissioner of Aviation, 50 percent is returned by them to the State Treasurer and the other 50 percent to the municipalities or airport authorities that have the landing strips. In that sense, it is a

housekeeping bill and we urge its passage.

Adopted. Ordered to third reading.

HB 508

exempting certain temporary heliports from registration under provisions of the aeronautics act. Ought to pass. Sen. Downing for Public Works and Transportation.

Sen. DOWNING: Mr. President, HB 508 would merely give the Aeronautical Commission permission to establish a temporary heliport. This is primarily to serve things such as the Santa Claus promotions and this type of thing where they can set rules for safety which the local officials will have to abide by. We urge its support.

Adopted. Ordered to third reading.

SB 66

requiring persons engaged in the hunting of big game animals to display on their person a minimum amount of color known as hunter orange. Ought to pass with amendment. Sen. Porter for Recreation and Development.

AMENDMENT

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Required Display for Big Game Hunters. Amend RSA 208 by inserting after section 23 the following new section: 208:24 Display Requirement for Big Game Hunters. Any person hunting big game with firearms in this state shall display hunter orange material visible from all sides. "Hunter orange" shall mean a daylight fluorescent orange color with a dominant wave length between five hundred ninety-five and six hundred five nanometers, an excitation purity of not less than eighty-five percent and a luminance factor of not less than forty percent. Any person who violates any provision of this section shall be fined not more than twenty-five dollars.

2 Effective Date. This act shall take effect July 1, 1972.

Sen. PORTER: Mr. President, SB 66 is a bill calling for the wearing of hunter orange by hunters of big game. Some of the previous opposition was due to the requirement which called for 400 square inches of this material to be displayed on the hunter. This opposition is eliminated where it calls for some

quantity of this material to be visible from all sides in the amendment. Another objection was the early enactment date. It has been extended from the end of this fiscal year to another year. The reason for this opposition was that the stores would be unable to stock these items such as a hat or a vest or something of this nature. This amendment extends the time for one year and takes away that opposition. My prime reason for entering the bill was still for safety reasons. The wearing of hunter orange might result in the saving of one life. I would like to read part of a report which pertains to the State of Pennsylvania which has a hunter orange law. This is an annual safety report issued by the Pennsylvania State Game Commission and it has a whole series of statistics related to hunting, numbers of accidents, numbers of fatalities and so forth.

“Perhaps the most impressive statistic last year concerning the wearing of fluorescent orange was that not one person wearing fluorescent orange was shot in mistake for game in 1970. Two victims who wore yellow were mistaken for game and seven victims who wore red were mistaken for game. There were twelve instances in which the victim not wearing safety colored clothing was mistaken for game.”

I think it is clear that the wearing of hunter orange does add a new level of safety for those of us who hunt in the woods for both parties. I urge a favorable report and passage of this bill.

Sen. FERDINANDO: What color is hunter orange?

Sen. PORTER: It is defined in the bill as the daylight fluorescent orange color with a dominant wave length between 595 and 605 nanometers.

Sen. LEONARD: The way this amendment is written, it says that he must wear orange on all sides. Is that correct?

Sen. PORTER: It could be a very small quantity, depending upon the amount of protection the hunter desired.

Sen. SNELL: Mr. President, I rise in support of SB 66 for the same reason that I stated some weeks ago. I consider myself an individual who desires to hunt large game in our state. I consider the safety factor here and I, as a hunter, have hunter orange as a means of preventing my body from being shot at while engaging large animals. I hope that the Senate will consider this

piece of legislation as a safety factor for preserving life in our state and hopefully, if you pass this bill, we might save just one life during the hunting season in years to come.

Sen. MORRISSETTE: I also rise in support of the bill. I think it is very essential and no one will be hurt.

Sen. POULSEN: I also rise in support of this motion. It takes away the irksome part which made hunters *have* to have a particularly large amount of hunter orange on their person. By possessing one piece of orange, anyone will be happy. They can put on as much as they want.

Sen. LAMONTAGNE: Mr. President, seeing that I strongly opposed the bill just a few weeks ago, I also rise in support of the amendment. I don't think that the amendment will hurt anyone, although there is one thing I am wondering about. Why weren't the Maine laws looked into instead of Pennsylvania?

Sen. PORTER: Concerning the Maine law, the words, "visible from all sides" are found in that law. I am just using the statistics which are available from Pennsylvania to support it.

Amendment adopted. Ordered to third reading.

SB 159

abolishing the state rifle range commission. Ought to pass. Sen. Snell for Resources and Environmental Control.

Sen. SNELL: Mr. President, in 1965, the establishment of a State Rifle Range Commission was set up and, at that time, they requested this commission to look into the feasibility of having a state rifle range. However, this committee has been very inactive. In fact, they have only had one meeting. It was pointed out in testimony that we have over 275 boards and commissions at the present time in this state. Some are very useful and others, very inactive. This being one of the most inactive, today's passage would repeal the State Rifle Range Commission. I hope you will accept the report.

Adopted. Ordered to third reading.

SB 188

relative to a compact between the states of Maine and New Hampshire to promote the better utilization of the Saco River Watershed and making an appropriation therefor. Ought to pass. Sen. McCarthy for Resources and Environmental Control.

Sen. MCCARTHY: Mr. President, SB 188 authorizes the Governor of New Hampshire to execute a compact on behalf of New Hampshire with the neighboring state of Maine regarding the Saco Watershed. The purpose of this compact would be to promote better utilization of this valuable asset through the joint efforts of the states of Maine and New Hampshire. I understand the Maine Legislature has acted favorably on their portion. The compact would involve five representatives to be designated as the Saco Watershed Commission, the requirement being that they be residents of the Saco Watershed area. The Committee recommends that this bill ought to pass.

Sen. S. SMITH: Mr. President, I rise in support of the Committee Report. This is an important piece of legislation for the northern section of Carroll County in which the Saco River is located. It is one which the people in the area are concerned about and want very much to have so that the river may have adequate protection in the years to come.

Referred to Finance.

SJR 21

establishing an interim committee to investigate and inventory the state's scenic rivers, report on its findings, draft proposed legislation and making an appropriation therefor. Ought to pass. Sen. Porter for Resources and Environmental Control.

Sen. PORTER: Mr. President, SJR 21 is derived from the recommendation of the Environmental Council, with the support of the Federated Sportsmen Club of New Hampshire. The name has recently been officially changed to the New Hampshire Wildlife Federation. The creation of an interim committee is for them to study the state's scenic rivers, investigate them, inventory these rivers and propose legislation. They will develop the criteria and recommend this legislation for the next session. It will be a 10 member committee, including members of the Legislature, Fish and Game, Resources and so forth. There is an appropriation included with this SJR and under the rules, it would be referred to Finance.

Referred to Finance.

HB 494

relative to tax exemptions for water and air pollution control facilities. Ought to pass. Sen. Porter for Resources and Environmental Control.

Sen. PORTER: Mr. President, HB 49 was heard on March 25 in joint committee. It came into the Senate unamended and it calls for applying the control of tax exemptions for certain air and water pollution control devices. The ones dealing with air go to the Air Pollution Commission for their administration. The bill was entered on behalf of the Commission. There was no opposition.

Adopted. Ordered to third reading.

(Sen. S. Smith in the Chair)

Sen. BRADSHAW: Mr. President, I move that the Senate accept the Committee of Conference Report on the Joint Rules — SCR 1. Every member of the Senate should have a copy of the Committee of Conference Report on the Joint Rules.

COMMITTEE OF CONFERENCE REPORT ON SCR 1

The committee of conference to which was referred SCR 1 proposing that the joint rules of the 1969 session excepting joint rule 26 be adopted as the joint rules of the 1971 session of the general court, having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrency in the House amendment, and

That the House recede from its position in adopting its amendment, and

That the House and Senate each adopt the following amendments to the concurrent resolution:

Amend the caption of the resolution by striking out the same and inserting in place thereof the following:

Senate Concurrent Resolution that the following joint rules
be adopted as the joint rules of the 1971 session
of the general court.

Amend the resolution by striking out all after the caption and inserting in place thereof the following:

Be it resolved by the Senate, the House concurring, that the following rules be adopted as joint rules of the 1971 session of the general court:

1. The Joint Committee on Rules shall comprise the Committee on Rules of the Senate and of the House. It shall be the duty of the Joint Committee on Rules to recommend to the two bodies the day and time to which the two bodies shall adjourn, and such other matters as be referred to it by either or both bodies.

2. When a convention of the two bodies is to be formed, whether by a requirement of the Constitution, or by a vote or resolution of the two bodies, a message shall be sent from the House of Representatives to the Senate, giving notice when the House will meet the Senate in convention. As soon thereafter as the convenience of the Senate will permit, they will attend in the House. The Speaker of the House shall be chairman of the convention, and shall state the reasons for forming the convention. When the House and Senate are thus formed in convention, the rules adopted as the rules of the House shall be considered the rules of the convention, so far as they may be deemed applicable, and the convention shall accordingly be governed thereby.

3. Message shall be sent by such person or persons as each body may deem to be proper.

4. Messages from either body shall be received from the other at all times, except when engaged in putting a question, in calling yeas and nays, or in counting the ballots.

5. When a message shall be sent from either body to the other, it shall be announced at the door of the body to which it may be sent by the doorkeeper.

6. While bills are on their passage between the two bodies, they shall be under the signature of the clerk of each body respectively.

7. Any bill concerning state retirement systems shall not be introduced unless there is attached thereto a fiscal note based upon estimates obtained from a qualified and approved actuary as to total cost involved.

8. Every bill repealing or modifying any act or statute shall refer to the same: (a) if contained in the Revised Statutes Annotated by the section and chapter thereof and if the 1955 adopted Revised Statutes Annotated has been amended by stating "as amended"; (b) if not contained in the Revised Statutes

Annotated by the section and chapter and the session of the legislature when the same was passed expressed in words clearly with full reference to all amendments in sequence so that it shall not be necessary to refer to any other act or statute to ascertain the meaning thereof. The title of every bill shall indicate, in brief and comprehensive form, the subject-matter contained in the bill. It shall be the duty of the presiding officer of each body of the legislature to require all such bills to be made in conformity with this rule, before putting any vote thereon, except to commit or amend.

9. When a bill or resolution which shall have passed in one body is rejected in the other, notice thereof shall be given to the body in which the same shall have passed.

10. After each body shall have adhered to its disagreement, a bill or resolution shall be considered lost.

11. Each body shall transmit to the other all papers on which any bill or resolution may be founded.

12. Each body shall take final action on all bills that originate therein not later than the second Thursday in June. The nonoriginating body shall take final action on all referred bills not later than the fourth Thursday of June, provided that if any bill is sent to a committee of conference further action may be taken subsequent to said date by the House and Senate.

13. No bill which has been finally disposed of shall be admitted under color of amendment.

14. No bill, joint resolution, concurrent resolution to amend the constitution, claim outstanding on the first day of the session or petition relating to new business shall be introduced in the session unless its subject matter has been received for drafting by Legislative Services on or before the seventeenth legislative day of the session, nor shall such matters be introduced in either branch of the legislature from state officers, departments or agencies unless they have been previously filed with Legislative Services prior to October first preceding the session, unless reported by the Committee on Rules; provided that this rule may be suspended in either house whenever two-thirds of the whole number of elected members shall, on division taken, vote in favor thereof, and not otherwise.

15. There shall be a committee for the purpose of enrolling bills, consisting of five members of the House of Representatives and three members of the Senate. All bills that have passed both bodies shall be delivered to said committee, be by them enrolled, carefully examined and reported to the respective bodies; and shall be signed by the Speaker of the House of Representatives and the President of the Senate. If the examination of a bill shall disclose any clerical error or formal imperfection, said committee shall report it back to the respective bodies, with such amendments as are required to correct the same; and any measures so reported shall be subjected to amendment in those particulars and in no other respect.

16. A public hearing on any bill may be held jointly by the Senate and House committees. The Speaker or President of the body in which the bill originates may request the President or Speaker of the other body to authorize the appropriate committee of that other body to sit at a joint public hearing. Joint hearings in no way preclude the bill being reheard by the committee of either body. Presiding over the hearings shall be either the Senate or the House committee chairman, or his designate, without regard as to whether a House or Senate bill is being heard. The presiding chairman shall alternate from bill to bill between the House and Senate chairmen, or as mutually agreed by them.

17. The Speaker or the President may authorize standing committees of their respective bodies to meet on non-legislative days as needed.

18. Effective date of bills. Except as hereinafter provided, each Senate and House bill shall in terms be made effective not earlier than sixty calendar days after the date of its passage. Any bill requiring another effective date than prescribed herein may be amended on second reading by a majority vote of either the Senate or House and said amendment may provide for a bill to become effective on passage or on a specific date. Provided, however, that the limitation herein provided as to effective dates shall not apply to (1) bills of an emergency nature, (2) tax bills, (3) private acts affecting one particular town, city or political subdivision, (4) bills making appropriations of money for ordinary or capital expenses of state agencies, or (5) bills affecting fees for licenses or certificates.

19. A bill or resolution may be recalled from the Governor at any time before it is signed by him, by a majority of the Senate or House, whichever last had possession.

20. Concurrent Resolutions Proposing Constitutional Amendments. Proposed constitutional amendments shall be submitted as concurrent resolutions entitled: "Concurrent Resolution proposing a Constitutional Amendment Relating to * * *," and with a resolving clause in the following form: "Be it Resolved by the (Senate) (House of Representatives) the (House of Representatives) (Senate) concurring that the Constitution of New Hampshire be amended as follows: "Concurrent resolutions proposing a constitutional amendment shall truly propose to amend or supplement the Constitution and contain only subject matter which genuinely belongs in the fundamental law of the state: it being the intention of this rule to exclude therefrom all subject matter which is legislative in nature and all questions which are submitted under the guise of constitutional amendments for the primary purpose of obtaining a popular referendum. Each concurrent resolution shall set forth the text of the new matter to be inserted in the Constitution and also the text of a question summarizing the amendment, to appear on the ballot proposing such constitutional amendment. The General court shall specify the particular election at which such question is to be submitted to the voters, and shall state whether it is to appear on the regular or a separate ballot. All such concurrent resolutions shall be read a first and second time by title and referred to the appropriate standing committee for public hearing and report. Amendments to such a resolution shall be in order while the measure is still on second reading. On the question of ordering such a resolution to third reading and on the question of final passage, the President and Speaker shall require a division vote unless a roll call is recorded under the rules and completed, adoption of either of said questions shall require a vote of three-fifths of the entire membership of each house. In case of disagreement between the two bodies, such concurrent resolutions shall be subject to the usual conference committee procedure. Such concurrent resolution, if adopted by the required constitutional majority of each body, shall be engrossed in the usual form and signed by the Speaker and the President, and shall be submitted to the Secretary of State for appropriate action and for submission to the voters. Such con-

current resolutions shall be made a part of the permanent legislative records.

21. A concurrent resolution proposing a constitutional amendment, as provided by Rule No. 20, shall be read into the Senate or House where it originates not later than the *second Thursday of March first following the assembly of any General Court*. All hearings on such resolutions may be held jointly as provided under Joint Rule 16 by the appropriate standing committees of the Senate and House provided that in the event the resolution is amended in the first body and the second body chooses to have a second hearing this too may be joint. The committee vote on the resolution shall be by each committee and not by the committees jointly and passage in final form shall be completed by both bodies not later than the last legislative day of April of the calendar year in which the resolution was introduced. After said date in April no further action may be taken by either house on the resolution provided that if in the opinion of the attorney general, or an advisory opinion from the supreme court states that, the form of the question in the resolution needs to be amended, the two bodies may amend the resolution in such particular only by affirmative vote of no less than three-fifths of the entire membership of each house taken on division or roll call vote. A motion to so amend shall be in order in either body, notwithstanding any other rule to the contrary, at any time prior to the prorogation of the assembly of that General Court.

22. Any bill making appropriation for the administration, operation and maintenance of any department or departments for each or any fiscal year of the biennium, or a bill making general appropriation for the cost of land, public improvements and other capital outlays, itemized by specific projects or classes of projects of the same general character (the so-called Capital Budget Bill) shall be introduced into either the Senate or the House no later than May 1st, and the house of original introduction shall take final action on any such bill and it shall be entered into the second house no later than the first Thursday of June. The second house shall take final action on any such bill no later than the third Thursday of June, provided that if any such bill is sent to a conference committee, further action may be taken subsequent to said date by the House and Senate.

23. Conference Committees on Budget Bills. The report of the conference committee on either the general appropriation

bills or the capital improvements bill shall be printed in the journal or a supplement thereto before action is taken on the floor in either body on said report.

24. The report of a committee of conference on a concurrent resolution proposing an amendment to the constitution shall be first returned to that house which acceded to a request for a committee of conference. The report shall be recorded in full in the journal of that house to which it is first returned and made a special order of business at the late session of a subsequent day. After said report has been adopted by the house to which it was first returned, it shall then be transmitted to the other house for its action.

25. No Joint Rule shall be suspended unless two-thirds of the members present, in each house, voting separately, vote in favor thereof.

26. No action may be taken in either house on any committee of conference report until a copy of said report has been delivered to the seats or placed on the desks of all members.

Be it further resolved that joint rule 14 above shall not apply to the 1971 session of the Senate, and

Be it further resolved that the provisions of joint rule 21 shall not apply to the 1971 session of either the House or Senate.

Conferees on the part of the Senate:

John R. Bradshaw, District 10

Harry V. Spanos, District 8

Conferees on the part of the House:

George B. Roberts, Jr., Belknap 6

James E. O'Neil, Cheshire 12

Miles J. Cares, Hillsborough 24

Sen. BRADSHAW: Mr. President, I would like to point out a few changes that have been made since the 1969 session. In Rule 4, we eliminated the words, "or in reading of the *Journal*" because this is no longer done on a routine basis. It is strictly a housekeeping procedure.

The next change comes in Rule 8 and this was a technical change to assist the drafting process and allow a more orderly construction of our bills. What it states in essence is that if the

bill is amending an RSA, the reference to the year and chapter of changes does not have to be spelled out in the bill. The reason for that being that the supplements to the RSA's already carry this reference so it would be easy to check out. The place that really gets into problems is such a thing as the pay bill that gets changed every year and it is now in a situation that, in order to draft the bill, changing the statutes that establish pay for state employees, there are some 50 references that have to be put on the bill. It's a waste of time and it's a great place for a typographical error to occur that could cause us all sorts of grief. This again is a housekeeping bill.

The next change is on Rule 12. Last year, it said that each body shall take final action on all bills that originate therein not later than June 15. We have changed that to the second Thursday in June, which this year, is June 10. We chose, instead of taking a certain day, to take a reference to a day in the month so that these rules might be used in succeeding years. Again, in that same section, we struck out June 24 and inserted in place thereof the fourth Thursday in June for the same reason.

The next change comes in Rule 21 which, under the old rules said the first day of March. It has been changed to the second Thursday in March.

In Rule 22, a similar situation — we struck out June 1 and inserted the first Thursday in June. We struck out June 15 and inserted the third Thursday in June.

Rule 26 is new. "No action may be taken in either house on any committee of conference report until a copy of said report has been delivered to the seats or placed on the desks of all members." We had a rule in the last session which required distribution of committee of conference reports on the capital and operating budgets. There were a lot of us that felt that there was a great deal of merit in giving the membership of both bodies an opportunity to see all conference committee reports and that is the reason for the new rule.

Certain people from the House had proposed a rule that would have restricted lobbyists, department heads, etc. from using the corridor that the House and Senate shares and the Senate conferees could not go along with it. Finally, the House decided to forget about it.

That is, in brief, a summary of our results of our conference committee. If anyone has any questions, I would be glad to try to answer them.

Concerning the end of the report — "*Be it further resolved* that joint rule 14 above shall not apply to the 1971 session of the Senate, and

Be it further resolved that the provisions of joint rule 21 shall not apply to the 1971 session of either the House or the Senate."

The reason for that is that those two rules, 14 and 21, refer to dates that have already gone by, consequently, that have no particular meaning. We felt there was some merit in establishing some rules that might have some long term benefit and the easiest way to do it was to write in the rules the way they should be in future years and then simply wipe them out as far as anything in the 1971 session.

Sen. MORRISSETTE: Could you tell me the deadline for drafting bills?

Sen. BRADSHAW: There is nothing in the Joint Rules for that. I do have a resolution which I intend to offer for consideration which, in essence, will shut out new requests on May 27.

Report adopted.

Sen. BRADSHAW: Mr. President, I move the adoption of the following Senate Resolution:

RESOLUTION

Be it Resolved, That no Bill, Joint Resolution, Concurrent Resolution to amend the Constitution, claim outstanding on the first day of the session, or petition relating to new business shall be introduced in the Senate, except with the approval of the Rules Committee, unless its subject matter with sufficient material for drafting has been received by Legislative Services on or before May 27, 1971.

Sen. BRADSHAW: Mr. President, I think that it is obvious to all who have served in sessions before that it is necessary to have a cut-off date for the introduction of bills. The House had its cut-off date maybe two months ago. This is

needed for the orderly closing of the session and an opportunity to get the bills drafted and into the possession of the respective bodies so that due consideration can be given to every measure prior to the cut-off date for passing bills from one body to the other. This gives everybody one week from today to get information to legislative services for any bill that they want introduced. I urge your support of the resolution.

Resolution adopted.

HB 546

to define, control and prohibit the littering of public or private property. Ought to pass. Sen. Porter for Resources and Environmental Control.

Sen. PORTER: Mr. President, HB 546 defines, controls and prohibits the littering throughout the state. It provides for uniform prohibition and provides for definitions of all the different meanings of litter on public and private property and so forth. It establishes the criteria of unlawful activities and the penalties. The Committee heard testimony, all in favor of the bill. It was extensively amended in the House and the Committee heard no one in opposition. We urge your support.

Adopted. Ordered to third reading.

SB 11

to provide recognition of the war service or residents of this state who served in the armed forces of the United States during the Viet Nam conflict. Ought to pass. Sen. Lamontagne for Ways and Means and Administrative Affairs.

Sen. LAMONTAGNE: Mr. President and members of the Senate, the Committee decided that this matter should go on to Finance under the rules.

Sen. MCCARTHY: Mr. President, I rise very reluctantly to move to recommit SB 11 back to the Ways and Means Committee.

As one who could qualify for the maximum bonus contained in SB 11 and as one who has personally witnessed the ravages of this war in the Far East I doubt that there is anyone in this room who has more appreciation for the efforts and severe sacrifices of our young men in Vietnam.

Because of my respect for them and in an effort not to dupe or mislead them, I would ask that this bill be returned to com-

mittee until such time as we know what our financial conditions will be and whether or not we'll be able to fund this. I believe it is deceiving to pass this now and lead these young men to believe that they will get something we will not be able to deliver. I think this will only add to the distrust being widened by our youth today.

In speaking further I would also state that I do not believe the young veteran of today considers this bonus to be of top priority in his legend of values.

These are my reasons for moving for recommitting this bill. But in looking over the bill, I can see what appears to be a glaring error on line 6 of the bill where it states that each person eligible who is discharged under conditions other than dishonorable shall be entitled to the benefits provided in the bill. This I presume, means an individual discharged on a bad conduct discharge, a convenience of the government or other undesirable type would be eligible for this bonus.

Again, while I am in sympathy with the intent of the bill I hope I have given you sufficient reason and very sincerely urge to support me in my motion to recommit this bill to the committee.

Sen. NIXON: I commend you on the statement that you just made. Do you think that the majority of our Viet Nam veterans would rather receive \$100 provided for in this bill or see the war end as soon as possible?

Sen. McCARTHY: I definitely think they would like to see the war end.

Motion to recommit adopted.

SEN. S. SMITH IN THE CHAIR

SB 118

to permit state liquor stores to open on Sunday and to provide additional compensation to employees therefor. Ought to pass. Sen. Lamontagne for Ways and Means and Administrative Affairs.

Sen. LAMONTAGNE: Mr. President and members of the Senate, if this bill passes, it would mean that the Liquor Commission could open the stores on Sunday. It has been said

that there would be only four stores, but if necessary, the Commission would have the authority to open any stores in the State of New Hampshire on Sundays.

Sen. TUFTS: Was there considerable controversy and division of opinion among members of the Ways and Means Committee regarding the disposal of this bill?

Sen. LAMONTAGNE: It was not unanimous.

Sen. JACOBSON: What was the position of the Liquor Commission at the hearing?

Sen. LAMONTAGNE: They were for it.

Sen. KOROMILAS: What was the position of the employees?

Sen. LAMONTAGNE: Some were in opposition.

Sen. POULSEN: Mr. President, I move that the caption, "inexpedient to legislate" be substituted for "ought to pass". The State of New Hampshire has taken great strides in preventing deaths and destruction due to drunk drivers. I think that the opening state liquor stores on Sunday will exaggerate the cause of our drunk drivers. We certainly are not helping it. We are also making it mandatory for some state employees to work on Sunday who do not now have to.

Sen. KOROMILAS: Sen. Poulsen, is it not true that our first-class restaurants and other saloons do remain open on Sunday?

Sen. POULSEN: Yes, it is.

Sen. LAMONTAGNE: Mr. President, I rise in opposition to the pending motion of making SB 118 inexpedient to legislate. Personally, I feel that back many years ago when we legalized Sunday beer sales, the feeling was that this was going to be abused, but the record shows that it never was abused. We have already had the experience of selling beer in stores and liquor in restaurants and clubs. There are always some who abuse a privilege, but the majority of people did not abuse this. Those people who wish to become intoxicated would still do it whether or not alcoholic beverages were on sale on Sundays.

New Hampshire is seeking additional revenue sources and this measure would provide some source. This action would be in the hands of the Liquor Commission and they will have the discretion of opening the stores in specific areas that would support this revenue need. As far as for the employees, I don't believe that anyone is compelled to work unless he so desires. There are many individuals in our state who are seeking employment and would take a temporary job.

Sen. PORTER: Sen. Lamontagne, what is the purpose of the Liquor Commission — would it not be for control first and then service and finally revenue?

Sen. LAMONTAGNE: It would be for control, yes.

Sen. PORTER: If you open these on Sundays, don't you lose some of this control?

Sen. LAMONTAGNE: I wouldn't think so. No more than being open the other six days.

Sen. PORTER: On the bill itself, it talks about compensation for the loss of Sunday plus one and one-half times his regular rate of pay. What does that mean?

Sen. LAMONTAGNE: The employee may get a day off if he desires, but by working on Sunday, he would get additional pay.

Sen. PORTER: Didn't the State Employees Association representative present us several views that they were opposed to this opening of the liquor stores on Sunday?

Sen. LAMONTAGNE: Some were in opposition to it, as I already stated.

Sen. FERDINANDO: Am I correct in assuming that if an employee is making \$20 a day, under this bill, if he works on Sunday, he will be paid \$50 for working that Sunday?

Sen. LAMONTAGNE: That is correct — his regular rate of pay plus one and one-half times that rate on top of that.

Sen. TUFTS: Mr. President, I support the motion to make this inexpedient to legislate. I further support the opening of

liquor stores to sell liquor to prospective purchasers in the traditional shopping towns and the evenings which the Liquor Commission has made available to the buying public. Liquor has been available on Sundays and it has been testified here today that it is available to our citizens on Sundays in certain forms. I feel that the case was not made before the Committee that the increased fee is as great as people feel it might be if these stores were open on Sunday. It seemed to me it failed because the same people are going to be prospective Sunday purchasers as would have been purchasers on Friday or Saturday. They are merely spreading their buying time over one additional day. Furthermore, the stores that were named by the Commission that might be opened were on traveled highways and I am not convinced that people will pull out of the lines of traffic in order to go in and buy a bottle or two and then rejoin the line.

The Liquor Commission said that they had in mind opening four stores, but this measure, in no way, regulates what stores they may open — they may open all. I hope you see it in the province of your good judgment to support the measure, inexpedient to legislate.

Sen. NIXON: Mr. President, I move that further consideration of SB 118 be indefinitely postponed. To speak of the honest surface arguments in the first situation, I do not see that the passage of this bill would raise any great degree of increased revenue for the State of New Hampshire even if this were a worthwhile method of doing it. I would agree with Sen. Tufts' position in that respect. Secondly, I think it is somewhat inconsistent for us, as a legislative body, to be, in the first place, enacting laws purportedly to make our highways safer for our citizens and those who visit us by imposing stiffer penalties on drinking drivers and people driving after drinking and then in the second place, be considering legislation such as this which, if nothing else, would encourage Sunday tourists to stop and buy a bottle and, perhaps as human nature dictates, take a drink on the road. In the third place, I think that this bill, again, is in the direction of making our state employees, those who work in the liquor stores, second class citizens in that, regardless of what the law says, they would, in fact, either by economic necessity or by desire to get along with their supervisors, be required to work on Sundays and stay away from their fam-

ilies. I don't think that they should be required to be in that position anymore than anybody else should be.

In the last place, I think we have got to look beneath the surface of some of these things and consider whether we are, in the long run, attempting to do the right thing for New Hampshire by opening and making available to our citizens and, in effect, forcing on them, booze and all types of endeavors which will purportedly raise small amounts of money which, in my judgment, will do far more damage to our state and our citizens, environment and society in the long run than any material reward that may result in the short run to any degree.

This bill is in line with a trend which, if followed to its logical end, will have booze available 24 hours a day, will have the state building more and more liquor stores and more and more highways, encouraging children to drink, and getting to the point where economically and health wise, the arguments in favor of legalized prostitution will probably have as much or more sense to them. For these reasons, I would hope that we would send this bill back to where it belongs.

Sen. KOROMILAS: Are you suggesting that because a person purchases a bottle of liquor on Sunday that he will take it in his car and imbibe of it while he is getting to his point of destination?

Sen. NIXON: I am suggesting that it can very well happen and I think, in fact, that it does in many cases.

Sen. KOROMILAS: If a person bought a bottle of liquor on Saturday, prior to the closing day and decided he wanted to take it on a trip, could he not imbibe it then?

Sen. NIXON: That is so, but I don't think he should be encouraged to do it another day and I believe particularly it's on Sunday that we have a lot of our tourists driving home and I don't think we should encourage that type of activity.

Sen. KOROMILAS: Would you support a bill that would prohibit the sale of liquor in the State of New Hampshire?

Sen. NIXON: No.

Sen. SNELL: Sen. Nixon, under the present tax structure in the State of New Hampshire, what type of revenue nets the largest profit for our state in a given two year period?

Sen. NIXON: As I understand it, it is the revenue from liquor.

Sen. SNELL: Approximately \$52 million over a two year period. Do you feel that the state could survive if they did not engage in the sale of alcoholic beverages as far as hard liquor is concerned?

Sen. NIXON: Probably not. I am a little bit nonplused because I understood that no revenue raising measures could originate in the Senate and this is a Senate bill and accordingly, I don't believe we are talking about a revenue-raising measure — are we senator?

Sen. SNELL: No, sir. You made the statement, Sen. Nixon, that this piece of legislation might force people to buy booze, even on Sundays. Do you really think that this bill would force people to buy booze?

Sen. NIXON: If those who support the bill didn't think that people would buy booze on Sundays if it passes, then there is no need for the bill. I would agree with you if your question is suggesting that they can just as well buy it on Fridays and Saturdays and thus, there would be no need for the bill.

Sen. PORTER: Sen. Nixon, does New Hampshire have a high rate of alcoholism?

Sen. NIXON: I believe it does per capita.

Sen. PORTER: Do you think the increased opening of liquor stores might contribute to a higher degree of alcoholism in the state?

Sen. NIXON: I think it could very well have that trend.

Sen. PORTER: Does New Hampshire adequately rehabilitate those people who need help due to alcoholism?

Sen. NIXON: I think, notwithstanding the dedicated efforts of the people involved in our alcoholism program and notwithstanding insufficient funds, staffing and facilities, that New Hampshire tries to do a good job, but I don't think it does a good enough job.

Sen. LEONARD: Sen. Nixon, on a few occasions in the past, you talked about bringing one of the arguments to its log-

ical conclusion and you applied the same argument today by saying if we apply the argument for opening the liquor stores on Sunday, we will have legalized prostitution — is that what you said?

Sen. NIXON: No. What I said was that if we apply to its logical conclusion the principle that this type of conduct, the selling of booze, should be the principal source of revenue, then following it out, we could well get into the area of legalized prostitution. In many countries it is done for health arguments in addition to revenue arguments in favor of such legislation.

Sen. LEONARD: We passed some very strong laws on drunken driving recently. Do you think that will have any affect on drunken drivers on the highways.

Sen. NIXON: I hope so, that is why I supported them.

Sen. LEONARD: Do you think that will have more affect on drunken drivers than the opposite effect by having the stores open on Sunday?

Sen. NIXON: I think that the laws we have passed in regards to the stiffening of the penalties for drunken driving will have a deterrent effect — at least I hope so. I think the passage of the bill now before us will have an opposite effect — an encouragement effect and thus I see that legislation that we have already acted upon is inconsistent with favorable action on the bill now before us.

Sen. LEONARD: Do you know of anybody who has trouble getting liquor if they want it? If people want to drink, they are going to anyway — aren't they?

Sen. NIXON: That is true, and thus, why do they need Sundays to buy it if they can get it during the rest of the week?

Sen. LEONARD: Is the State of New Hampshire in the liquor business?

Sen. NIXON: Unfortunately, yes.

Sen. LEONARD: Do you think it is good business practice to be open an extra eight hours a week, no matter what you sell?

Sen. NIXON: Good business practice in the sense of bringing possibly more money. To that limited extent, yes. On the

other hand, I think there is some real question about whether we ought to have *all* kinds of stores open on a 7 day a week basis or on a holiday basis if we have, as we claim to, respect for holidays and what they represent such as Memorial Day. I don't think we ought to commercialize those things and the Sabbath is one of those days that ought not to be commercialized any more than it unfortunately already is.

Sen. LEONARD: In your opinion, if the stores are open on Sunday, would we sell more liquor to tourists and out-of-staters than we would to New Hampshire people?

Sen. NIXON: I think you would probably sell more to tourists than you would to residents.

Sen. LAMONTAGNE: Sen. Nixon, do you feel that SB 118, the way it has been drafted, that since we might get revenue from this measure that this is a legal procedure?

Sen. NIXON: I don't think that it is legally a revenue-raising bill within the prohibition against the Senate originating revenue-raising measures. But from the arguments of some of those who support the bill, I certainly thought it was at least intended to be a revenue-raising bill.

Sen. LAMONTAGNE: Do you feel that if this bill were to pass the body, that there would be no constitutional question about it?

Sen. NIXON: I would agree with that.

Sen. MORRISSETTE: Mr. President, I was very disturbed by the testimony at the hearing concerning the objective of killing this bill. This bill was originally introduced with the hope of helping Laconia State School. I had in mind an amendment to earmark the money to this school and any worthwhile project, including pollution. The store would be opened at 1 o'clock in the afternoon — four stores. This has nothing to do with drunk drivers. I talked with a number of employees who were not opposed to working on Sunday. Furthermore, they are not obligated to working. We could hire and train outsiders if necessary. This is a very attractive offer.

We had testimony that by opening the stores on Sunday, we would have an additional million dollars in revenue. To kill it just because it is a "revenue" bill has no justification. I

am sick and tired of hearing that our liquor stores located near a bordering state are competing with our neighbors. A great percentage of our income is going into Massachusetts and other areas so why not seek additional revenue from this source to remedy our needs in such as education, pollution, etc. I can't think of any logical argument against this bill. It is not going to promote drunk driving, it will not hurt the employees — in fact they will welcome the additional income.

Sen. SPANOS: I can't find anything in this law of proposed legislation which limits the number of stores that are going to be open on Sunday. You said that it was only going to be two or four stores. This is, as I read it, wide open to open any stores in the state.

Sen. MORRISSETTE: There would be no sense in opening the other stores because this is to get the traffic that is going back, primarily to Massachusetts.

Sen. SPANOS: Would you or would you not admit that this bill opens the door for every store to be opened in the state?

Sen. MORRISSETTE: Yes, it does, but it can easily be amended. This bill was drafted by the drafting service and the wording of it came from our Liquor Commissioner. I have faith that when they specify four stores and even name them at the hearing, that they will open only these four stores.

Sen. PORTER: Sen. Morrissette, you noted that you had not heard any opposition from the employees to these stores being opened?

Sen. MORRISSETTE: At the hearing I did.

Sen. PORTER: At the hearing, wasn't the ratio of 177 to 4 in opposition to these stores being opened — wasn't that evidence presented by Mr. Dennis Parker?

Sen. MORRISSETTE: I didn't hear any such evidence. I knew it would be an automatic thing but it doesn't affect the employees because they do not have to work and the Commission has agreed to hire outside work so why should we oppose a bill that is going to bring in an additional million dollars of revenue?

Sen. PORTER: Did not also Mr. Healy and Mr. Elliott appear in opposition because of the opposition of the employees who would have to work on Sundays?

Sen. MORRISSETTE: Yes. I understand that the employees oppose any progressive movement, even though it doesn't affect them financially, they oppose anything you try to do in the liquor stores to promote better business.

Sen. POULSEN: Sen. Morrissette, it was said that the bulk of the customers would be Sunday traffic. Do you expect that out of all of these tourists and motorists who purchase the liquor, that none of them would unscrew the cap of the bottle before they got home?

Sen. MORRISSETTE: I don't expect that. I believe that the prime motivation for these people to stop will be to purchase liquor and cigarettes, especially in view of the fact that our prices are much lower.

Sen. KOROMILAS: Are you aware that Massachusetts sells liquor on Sundays on the highway?

Sen. MORRISSETTE: I am not aware of that.

Sen. FERDINANDO: Mr. President, I rise in favor of SB 118. We are in the liquor business, we do have the lowest liquor prices in the country and it is important to keep in mind that over half of our sales do come from out-of-staters. Let's make it available so we can generate some income.

Sen. PORTER: Sen. Ferdinando, you know that we have the lowest prices in the country. Would this be due to the outstanding promotion of the Liquor Commission?

Sen. FERDINANDO: We have the lowest prices in the country because we have a controlled state which is working on a volume basis. For that reason, we have a very unique situation working in our favor. We are capitalizing on it in spite of ourselves. I have an amendment, if this bill passes, that will go a little further in adding further revenue towards this bill.

Sen. DOWNING: Mr. President, I rise in support of the pending motion to indefinitely postpone this bill. I don't see how it can possibly be equated with the fact that stores sell beer or restaurants sell liquor and this type of thing. I think it is entirely different. In the instances of those cases, these people

are already in business and add liquor to their sales. If we were to pass this bill, it would be terribly unfair to the employees of the state who are involved.

Today, in many families, both heads of the household are working and Sunday is the only day they have to spend with their families. To take this away from them would be an infringement upon the basic family life and I don't feel it ought to be supported at all. The fact that to work is not going to be an obligation, that maybe new people will come in to do this job is absolutely ridiculous. I spent many years in the management level of retail and whenever you open up a store on Sunday, you may put it on a volunteer basis, but you get down to a few who have to work — they have no choice. There will have to be certain experienced people in the store and there is no alternative — they will have to work regardless of the method used to get them to do it. I think it is very unfair.

Sen. KOROMILAS: Sen. Downing, are some state employees required to work on Sunday at the present time?

Sen. DOWNING: Yes, they are, but I believe that this is a condition of the employment at the time that they are hired. This is not the case with the people working for the Liquor Commission.

Sen. LEONARD: Could the State of New Hampshire use the revenue of a million dollars a year?

Sen. DOWNING: I would expect that the state could use all the revenue they can get, but I don't believe they should get revenue at *any* price.

Sen. TUFTS: We have had quite a few remarks this afternoon about the revenue that is going to come in. Where did the million dollar figure come from?

Sen. DOWNING: I consider that rather nebulous too.

Sen. SNELL: Mr. President, I rise in opposition to the motion to indefinitely postpone. I do for these reasons. I listened to the distinguished senator from District Nine, Sen. Nixon. I agree with his thought concerning the problem of alcoholism while driving, but in this case, I feel very strongly that the State of New Hampshire, at the present time, receives one-third of the total funds to operate this great Granite State and

until we change our present tax structure, this type of revenue is a necessity in this day and age. I also want to point out that I feel that there will be a few who will hurt the privilege of buying alcoholic beverages on Sunday in this state. But, I am sure the bulk, the 99 percent of these individuals, if they are law-abiding citizens, will not open that bottle cap while driving.

I know that this is a touchy situation — a bill that is very controversial as far as Sunday sales are concerned. Isn't it strange that our Chamber of Commerce in each and every community is facing this fact today of opening stores 7 days a week? In the neighboring City of Dover, they thrive on the business that they receive on Sunday from the neighboring State of Maine. There is one example — on a given Sunday, the Giant Store, (and I am not giving free commercial time here) recognizes a profit to the store plus employment of close to \$17,000.

I agree with Sen. Nixon on this point that we should keep the Sabbath, but I am sorry that the Chamber of Commerce people have not seen fit to do this. Therefore, I go on record today in favor of SB 118, today being the 20th day of May, this being the first piece of legislation that gives one tax dollar revenue to the State of New Hampshire here in this branch of government.

Sen. TOWNSEND: Sen. Snell, earlier this afternoon, you supported a bill because you felt that it might possibly save one life. If we defeat this bill, it might possibly save one life. Do you not feel that this would be a move in the right direction?

Sen. SNELL: I certainly agree with you that with this bill, if an individual does break the law and opens that cap to take a sip of alcohol and drinks while driving, a loss of life could take place. But, he is breaking that law and he is also breaking the law if he does not have fluorescent orange on his body while hunting. The law has been broken by that individual in this case.

Sen. DOWNING: Recognizing that many of our employees accepted positions of employment with us with lesser pays than they might have gotten in private enterprise because of conditions such as not working on holidays or Sundays, don't you feel any obligation to maintain this in their interests?

Sen. SNELL: I certainly do, but in this case, I am looking for those individuals who will be hired also on a supplement income, for individuals who are unemployed at the present time who may be trained over a period of time to actually supply additional labor hours in these given stores.

Sen. DOWNING: You don't recognize this as a very impractical plan in that, in fact, some people who are experienced and who are working now are going to have to work and maintain these stores, even though it may interfere with their family way of life?

Sen. SNELL: I agree with you that it may hamper their family life. There are a number of individuals who are working 7 days a week who have families. There are other individuals who have Mondays and Tuesdays off. I feel that we have the working force to take up the slack to find individuals to supply the labor in these given stores.

Sen. DOWNING: Recognizing that all of these people that you refer to are employed out of choice in an area that they want to be employed in, again I ask you whether you feel any responsibility to the employee that is employed because of a program you offered at the time you employed him?

Sen. SNELL: Yes.

Sen. LAMONTAGNE: Mr. President, I rise in opposition to the present motion to indefinitely postpone. I don't know whether the Senate is aware that Sen. Cotey from Lewiston, Maine informed me that Maine has recently passed legislation which will reduce the price of liquor in Kittery, Maine. If this is so, I feel that this will mean a decrease in revenue in the Portsmouth store. The State of Maine is strongly opposed to Sundays sales of any type of alcoholic beverage. By opening the store in Portsmouth, I feel we will be more than making up the amount of revenue that they would lose because of the decreased prices in the Kittery store.

Sen. JACOBSON: I move the previous question.
Adopted.

Question on indefinite postponement.

Division vote: 11 Yeas — 10 Nays.
Adopted.

HB 249

relative to the definition of permanently and totally disabled.

Ought to pass. Sen. Tufts for Ways and Means and Administrative Affairs.

Sen. TUFTS: Mr. President, HB 249 merely allows the Division of Welfare to set a definition of the word "disabled". In the case of physical disabilities, they are easily recognized. One can tell if someone is blind or deaf, but in the case of mental disabilities, it is more difficult to be recognized. This allows the Division to emulate and formulate a definition of the term "disabled" to apply to mental disability. The Committee recommends its passage.

Adopted. Ordered to third reading.

SB 101

providing for the recognition of "middle schools." Ought to pass. Sen. Jacobson for Education.

Sen. JACOBSON: Mr. President, at the present time, the statutes recognize elementary schools, junior high schools, and senior high schools. The statutes do not recognize the concept of the middle school, even though they are presently in existence. All this bill does is to give that legal recognition to the middle school concept.

Adopted. Ordered to third reading.

PERSONAL PRIVILEGE

Sen. FOLEY: Mr. President, I had been called to the phone when the roll call was taken on HB 751 and I would like to be recorded as in favor of this bill.

(Sen. Bradshaw in Chair)

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until Tuesday, next, at 1 o'clock.

Adopted.

LATE SESSION

Third reading and final passage

HB 467, relative to intoxicating beverages at interscholastic athletic contests.

HB 682, to amend the charter of St. Paul's School.

HB 739, clarifying the law relative to the board of trustees of New Hampshire colleges and equalizing the expiration dates of appointed university trustees.

HB 751, clarifying the law relative to the board of trustees of New Hampshire colleges and providing for a student member thereof.

SB 210, enlarging the conditions under which federal or state aid projects may be pre-financed and extending the term of borrowing for the same to five years.

HB 439, relative to extending the service fee on air carriers to all public landing areas supported, in whole or in part, by state and municipality or airport authority funds and to allocate said fees between the state and municipalities or airport authorities.

HB 508, exempting certain temporary heliports from registration under the provisions of the aeronautics act.

SB 66, requiring persons engaged in the hunting of big game animals to display on their person a minimum of color known as hunter orange.

SB 159, abolishing the state rifle range commission.

HB 494, relative to tax exemptions for water and air pollution control facilities.

HB 546, to define, control and prohibit the littering of public or private property.

HB 249, relative to the definition of permanently and totally disabled.

SB 101, providing for the recognition of "middle schools".
Adopted.

Sen. Snell moved the Senate adjourn at 3:47 o'clock.
Adopted.

Tuesday
25May71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Guest Chaplain, Rev. Charles L. Banks of the West Swanzey Community Church in West Swanzey, N. H.

Our Father, we stand together to join our hearts in prayer in acknowledgment of our great need for thy guidance. We know that by ourselves we are not sufficient for these days, or for the problems beyond the measure of our best wisdom.

Keep us ever watchful for the many avenues of service we may render to the people, and supply us with the willingness to become involved with these people who in many situations depend upon what is accomplished here.

Receive our thanksgiving as you reveal your presence in all our activities and bless each of us who seek to bring new life and happiness in a world that wants to be understood.

God of all creation, sustainer of all life, guide, protect, defend and show mercy upon thy people everywhere. And we will forevermore praise Thee this day and always. Amen.

Pledge of Allegiance was led by Sen. Jacobson.

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 507, establishing a Hooksett District Court. (Judiciary)

HB 532, constituting the Merrimack District Court. (Judiciary)

HB 566, relative to the taxation of house trailers or mobile homes. (Ways and Means and Administrative Affairs)

HB 613, relative to the terms of members of the Air Pollution Control Agency; expanding the powers of the agency and

establishing a permit system for the control of air pollution. (Resources and Environmental Control)

HB 660, requiring certain district courts to hold regular sessions in certain towns within their district. (Judiciary)

HB 806, providing permits to keep moose taken in other states and Canada. (Recreation and Development)

HB 848, relative to actions to quiet title against known and unknown persons. (Judiciary)

HB 887, relative to the expiration date of hunting and fishing licenses issued to military personnel and others. (Recreation and Development)

HB 896, relative to the effective date of coverage under the New Hampshire automobile insurance plan. (Banks, Insurance and Claims)

HB 623, extending the application of the right to know law to the Legislature and all its committees. (Judiciary)

HB 725, establishing a five year term for the Director of the Fish and Game Department. (Recreation and Development)

HB 782, increasing the power of the state fire marshal and making him directly responsible to the Commissioner of Safety; increasing the membership of the State Board of Fire Control and making its functions advisory. (Executive Departments, Municipal and County Governments)

HB 814, enabling towns to elect a three-man board of assessors. (Executive Departments, Municipal and County Governments)

HB 833, increasing the jurisdiction under small claims procedures. (Judiciary)

HB 870, to increase the penalty for violations of municipal by-laws and ordinances. (Executive Departments, Municipal and County Governments)

HB 884, requiring that sugar served in public eating places be served in individually wrapped packets. (Public Health, Welfare and State Institutions)

HB 913, including paraplegics in the group of veterans not paying a fee for registration of their motor vehicles. (Public Works and Transportation)

HB 914, including paraplegics in the group of veterans not paying a fee for a license to operate a motor vehicle. (Public Works and Transportation)

HB 922, providing for special license plates for motor vehicles of blind veterans. (Public Works and Transportation)

HB 923, relative to the parking of motor vehicles by disabled war veterans. (Executive Departments, Municipal and County Governments)

HB 931, providing for special license plates for motor vehicles of paraplegics and amputees. (Public Works and Transportation)

HB 679, to increase the salary of the Hillsborough County Attorney and Assistant County Attorney. (Executive Departments, Municipal and County Governments)

HJR 49, requesting the Judicial Council to study and make recommendations relative to the Uniform Partnership Act. (Judiciary)

HOUSE ADOPTION OF COMMITTEE OF CONFERENCE REPORT

SCR 1, Joint Rules.

HOUSE AMENDMENT TO SENATE BILL

Sen. Jacobson moved that the Senate non-concur on the House amendment to:

SB 116, to prohibit individuals from soliciting rides or business on or in proximity to the traveled portion of a street or highway.

(See House Journal, 20 May 71 for amendment)

The President appointed as conferees on the part of the Senate, Sens. Jacobson and Leonard.

HOUSE ADOPTION OF ENROLLED BILLS AMENDMENT TO

HB 272, requiring fishways to be built on certain dams.

HOUSE NON-CONCURRENCE

SB 85, providing for a one day deer season for residents only.

ENROLLED BILLS REPORT

HB 211, to provide for treatment of minors for drug abuse without parental consent.

HB 249, relative to the definition of permanently and totally disabled.

HB 255, to increase the discount for resident purchasing season ski tickets.

HB 272, requiring fishways to be built on certain dams.

HB 276, relating to conservation officers of the Fish and Game Department.

HB 439, relative to extending the service fee on air carriers to all public landing areas supported, in whole or in part, by state and municipality or airport authority funds and to allocate said fees between the state and municipalities or airport authorities.

HB 467, relative to intoxicating beverages at interscholastic athletic contests.

HB 494, relative to tax exemptions for water and air pollution control facilities.

HB 508, exempting certain temporary heliports from registration under the provisions of the Aeronautics Act.

HB 546, to define, control and prohibit the littering of public or private property.

HB 682, to amend the charter of St. Paul's School.

HB 684, providing that a helper may set or haul lobster and crab traps only in the presence of and aboard a boat belonging to a licensed lobsterman.

HB 799, relative to the Board of Arborists.

SB 18, relative to filing dates for nominations in certain cities and towns.

SB 44, relative to the time the school census shall be taken and repealing the statute dealing with school boards visits to schools.

Sen. Richard Ferdinando
For The Committee

ADOPTION OF COMMITTEE OF CONFERENCE REPORT

HB 309, relative to unemployment compensation.

(See House Journal)

Sen. PORTER: Mr. President, I move that the Senate adopt the Committee of Conference report. The report is rather lengthy so I won't go into great detail here. The only significant change in the Senate-passed bill was we added back in the definition of the states to include Puerto Rico. The other sections of the report relate to technical amendments that we have been advised by the federal departments and the state departments that they need to be in there in order to make complete conformity with all the existing statutes.

Report accepted.

COMMITTEE REPORTS

SB 158

relative to the assignment of pupils under dual enrollment. Ought to pass. Sen. English for Education.

Sen. JACOBSON: Mr. President, SB 158 was introduced on behalf of the Department of Education. What this does is to establish the tuition responsibility in the school district where the child is residing in the event that the child is enrolled in a dual enrollment plan in some other school district. As one example, if a school district does not have a high school and a student attends high school in another school district which has a dual enrollment plan, the originating school district will bear the tuition responsibility.

Adopted. Ordered to third reading.

HB 882

relative to the election of candidates and membership of the Mascoma Valley Regional School District. Ought to pass. Sen. English for Education.

Sen. TUFTS: Mr. President, HB 882 applies solely to the Mascoma Valley Regional School District. It principally changes a slight increase in the number of school board members. The principal value of the legislation is that the school district attendance was very poor at the annual meeting and the citizens thought that they would have far more citizen participation if they allowed the school board members to be elected at the town meeting on Town Meeting and School Meeting Day. Therefore, more voters would be out and they would have a separate ballot for the election of the school board members. The Committee decided that this was a worthwhile endeavor and both the House Committee and the Senate Committee recommend it ought to pass.

Sen. TOWNSEND: Mr. President, I rise in support of HB 882. The Mascoma Valley Regional School District lies entirely within Senatorial District 5 and I have been urged by a number of people to support this piece of legislation and I urge my colleagues to do likewise.

Adopted. Ordered to third reading.

HB 327

to increase the compensation of the Board of Hairdressers, increase fees, and establish new licensing standards. Ought to pass. Sen. R. Smith for Finance.

Sen. R. SMITH: Mr. President, HB 327 contains no actual appropriation. It does increase the per diem from \$10 to \$20 a day for the members of the Board of Hairdressers. This would be offset in the increase in their own license fees.

Sen. JACOBSON: Does this bill have anything to do with the taking of blood tests?

Sen. R. SMITH: No. That is another bill.

Adopted. Ordered to third reading.

SB 107

to reorganize the Commission on Interstate Cooperation and make an appropriation therefor. Ought to pass. Sen. R. Smith for Finance.

Sen. R. SMITH: Mr. President, SB 107 is Sen. Jacobson's bill reorganizing the Commission on Interstate Cooperation. There is a typographical error in today's *Calendar* which says

"recognize." It should be to "reorganize the Commission." The Finance Committee has reviewed it and recommends that it be passed.

Adopted. Ordered to third reading.

SB 132

relative to the jurisdiction over domestic relations cases providing for full-time probate judges, providing for appeals to the Supreme Court, and establishing a study committee. Inexpedient to legislate. Sen. Koromilas for Judiciary.

Sen. KOROMILAS: Mr. President, SB 132 was sponsored by Sen. Nixon. It purports to set up a entirely new probate court system effective July 1, 1976. However, three sections would go into effect 60 days after passage if this were passed. The Probate Court would have a chief justice appointed by the Governor. Presently, there is no such position. Secondly, the bill contains a provision which would allow probate judges to sit as referees in domestic cases where they come from the Superior Court. In other words, the Superior Court could refer domestic relations cases to a probate judge. The third section would become operative within 60 days of passage and would set up a committee of 11 people — 10 probate judges and 1 layman.

The Committee felt that the major provisions of setting up a Probate Court were the same hours and the same salary that superior court justices get now and that this would be premature since we would have at least two more sessions of the Legislature before this would come into effect.

Sen. NIXON: As the sponsor of SB 132, I defer to the judgment of the Committee. I think that in addition to the arguments put forth by the distinguished senator from the Twenty-First District, there was some feeling amongst the members of the Committee that the establishment of full-time probate judges and the transfer of jurisdiction of domestic relations cases to the Probate Courts was somewhat inconsistent with other legislation now before the Committee and having been acted upon by this Legislature, which would alleviate, to some extent, the backlog and workload of the Superior Court. The feeling is also expressed that this bill, if adopted, would be very expensive for the state in terms of the salaries, not only to the judges but also for the additional stenographic assistance

and other facilities which would be required to be implemented adequately.

I might say further that sentiment in favor of this bill was not unanimous on the part of all of the judges directly affected by it. There were some provisions in the bill, however, specifically Sections 10-14, providing for appeals from decisions of the Probate Court. They essentially provide that such appeals would be to the Supreme Court as in the case of appeals from the Superior Court, with the right of the Supreme Court to refer questions of fact back to the Superior Court for jury determination that are worthy of consideration. These provisions, perhaps as an amendment to some other bill on a germane subject, ought to be passed in any event. I reserve the right to argue before the Committee on the merits of this. I concur in the Committee Report.

Resolution adopted.

HB 658

relative to anatomical gifts. Ought to pass. Sen. Tufts for Judiciary.

Sen. TUFTS: Mr. President, those who were in the Senate before probably remember that this matter has come before us previously. The sponsor is Rep. Bennett from Cheshire District 9. This measure is to merely bring us into line with the rest of the states. This is practically a model bill but the last time it appeared before us, for some reason or other, the Legislature decided to make *three* witnesses necessary for the giving of the anatomical gift. The model legislation merely calls for *two* witnesses.

The problem arises that if someone was within the confines of the State of New Hampshire who had signed to give an anatomical gift in the person's own state with the two valid witnesses, it would not be within the province of the laws of the State of New Hampshire because we now require three witnesses. The Committee recommends that we draw our legislation with the two witnesses required by the other states.

Adopted. Ordered to third reading.

HB 98

to control snowmobiles and motor vehicles within highway rights-of-way. Ought to pass with amendment. Sen. Lamontagne for Public Works and Transportation.

AMENDMENT

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Operation of Vehicles in Certain Areas Prohibited. Amend RSA 249 by inserting after section 51 the following new sections:

249:52 Prohibition of Certain Vehicles Within Highway Rights-of-Way.

I. No person shall operate a motorbike, motorcycle, trailbike, all terrain vehicle, including four-wheel drive vehicles or other motorized two or three wheeled trail type vehicle and track type vehicles within or upon the rights-of-way adjacent to the travelled way of the interstate highway system, toll roads, or limited access highways of this state.

II. It shall be unlawful for any person to operate a motorbike, motorcycle, trailbike, all terrain vehicle, including four-wheel drive vehicles or other motorized two or three wheeled trail type vehicle and track type vehicles with or upon highway easements or rights-of-way adjacent to the travelled way of any class I or class III highway or state maintained portion of any class II highway with the following exceptions:

(a) Emergency. In the event of an emergency, a person may operate one of the above motor vehicles in the right-of-way portion of such public highways provided, however, that an unregistered vehicle shall not be operated on the main travelled portion and paved shoulders of said highway.

(b) Adjacent to Public Highways. Whenever it is impracticable to gain immediate access to an area adjacent to a public highway where one of the above vehicles is to be operated, said vehicle may be operated within the right-of-way adjacent and parallel to such public highway over the shortest practical distance for the purpose of gaining access to the area of operation. This paragraph shall also apply to the operation of such vehicles to the point where the same are unloaded, from motorized conveyance to the area where the vehicle is to be operated, or from the area where operated to a motorized conveyance when such loading and unloading can not be effected in the immediate vicinity of the area of operation without causing a hazard to vehicular traffic approaching from either direction on said high-

way. Such loading or unloading must be accomplished with due regard to safety at the nearest possible point to the area of operation.

(c) Crossing highways. In crossing public highways, properly registered motorbikes, motorcycles, trailbikes, all terrain vehicles, including four wheel drive vehicles or other motorized two or three wheeled trail type vehicles and track type vehicles may cross the rights-of-way adjacent to the public highway as directly as possible, preferably at right angles provided that such crossing can be made in safety and does not interfere with the free movement of vehicular traffic approaching from either direction on such public highways. It shall be the responsibility of the operator of such vehicles to yield the right-of-way to all vehicular traffic upon any such way before crossing same.

249:53 Penalty. Whoever violates the provisions of RSA 249:52 shall be fined not more than one hundred dollars and, in addition, shall be liable for the cost of restoration of damages to the easement or right-of-way.

2 Effective Date. This act shall take effect sixty days after its passage.

Sen. LAMONTAGNE: Mr. President, HB 98 has been amended in Section 1 and 2 by adding track type vehicles. The reason for this is so that these types of vehicles would be included in the snowmobile law.

Amendment adopted.

Sen. KOROMILAS: Would you tell us what the bill itself does?

Sen. LAMONTAGNE: The bill deals with situations where these snowmobiles and track type vehicles were operating and destroying the beauty of the side of the highways. This will correct this condition. Many places have bare spots where the grass has been worn away.

Ordered to third reading.

HB 220

authorizing the State of New Hampshire to acquire the Contoocook Village Dam in the Town of Hopkinton. Ought to pass with amendment. Sen. Lamontagne for Public Works and Transportation.

AMENDMENT

Amend 482-F:1 and 482-F:2 as inserted in section 1 of the bill by striking out the same and inserting in place thereof the following:

482-F:1 Acquisition Authorized. For a consideration of one dollar the New Hampshire water resources board is hereby authorized to accept conveyance from the owners thereof the Contoocook village dam, so-called, on the Contoocook river in the town of Hopkinton in Merrimack county, and the water rights, land and other facilities connected therewith for the purpose of improving and controlling certain water rights for the benefit of the state. The greater will provide a suitable public access to the impoundment above the dam if none exists.

482-F:2 Tax Exemption. The properties hereby authorized to be acquired by the water resources board for the benefit of the state shall be exempt from taxation as long as said properties are held by the state. Until the water resources board received sufficient funding to make necessary repairs and/or modifications to the dam, the grantor will operate said dam under the supervision of the water resources board.

Sen. LAMONTAGNE: Mr. President, HB 220 deals with another one of these dams which the Town Selectmen want the state to take over. In the original bill, the expenditure of \$50,000 was to be made available out of the boat tax fund. This was taken out of the present bill because there is no need at the present time. This bill has also been amended by our Committee. We added "will provide a suitable public access to the impoundment above the dam if none exists."

The Water Resources Board requested that this wording be added.

Sen. NIXON: Contoocook Village is in my district and I was given to understand that the provision that the state would take over the financial repairs of the dam was at the request of the Water Resources Board and that the immediate projected repairs would cost about \$1500 — is that so?

Sen. LAMONTAGNE: It would cost about \$12,000-15,000.

Sen. NIXON: I also was given to understand that there is some money available, or expected to be available shortly, for

the purpose of such repairs so that this burden would not necessarily have to be borne by the town itself.

Sen. LAMONTAGNE: The way that it has been explained to us in our Committee was that necessary repairs will be made in the future and will come out of the boat tax fund which, I assume, right now is about \$40,000 and by the time these repairs are done, the fund should be about \$70,000. We were told there would be no problems.

Sen. NIXON: I understood you to say that Contoocook Village is not being discriminated against in the sense that any town in the state that wishes the state to take over a dam and the expense of maintaining it will be subject to a similar condition in the bill relating to it in the sense that the state's take-over will be dependent upon funds being made available at some later time?

Sen. LAMONTAGNE: It would be no different for any other towns.

Sen. NIXON: I compliment the Committee on Public Works and Transportation for their fine job.

Amendment adopted. Ordered to third reading.

HB 301

limiting the hours when snow traveling vehicles, mini bikes, and all terrain vehicles transporting firearms may be used during the deer season. Inexpedient to legislate. Sen. Poulsen for Public Works and Transportation.

Sen. POULSEN: Mr. President, HB 301, introduced by Rep. Oswell from Berlin limits the time that a gun may be carried on any vehicle, not only a snowmobile but on all terrain vehicles. It may not be carried from the hours of 7 A.M. to 3 P.M. The purpose of the bill was to prevent hunting from skidoos. The problem was that many people had camps way back in that have to move in and out and by not being able to carry their guns with them, they would have to make another trip on foot. Because of the problems that this would create, we have recommended that it be inexpedient to legislate.

Resolution adopted.

SUSPENSION OF THE RULES

Sen. TUFTS: Mr. President, I move that the Rules of the Senate be so far suspended as to allow the introduction of a

Committee Report not previously advertised in the *Journal* on HB 666. Testimony was offered this morning at the public hearing on this measure that we have some of our youth who are musicians, both singly and in groups who are now playing or who have been playing in institutions which serve liquor. It has come to a halt because these people are under 21 and they cannot legally entertain. This is too bad because these are good New Hampshire young people who are earning money towards their college education and who are using this money and not just wasting their time on street corners. The Committee, after hearing the testimony and deliberation and checking with the Attorney General, has established that we should allow solely the musicians and not more exotic types of entertainment so the Committee recommends its passage. The House has amended it so that it takes effect immediately.

Adopted. Rules Suspended.

HB 666

permitting eighteen year olds to entertain in lounges and dining rooms. Ought to pass. Sen. Snell for Ways and Means and Administrative Affairs.

Sen. SNELL: Mr. President, a number of young adults have informed me of this piece of legislation and are quite concerned that we do pass this law this week so that they will be able to find employment in the next few weeks. I checked with the Attorney General and our present obscenity laws cover any individuals who might look at this as another means of raising revenue for themselves.

Sen. LAMONTAGNE: Mr. President, I rise in support of the Committee Report. I have been contacted by some boys who had to discontinue their services because one boy was 19 so the group could not perform. This measure will enable our young musicians to gain employment.

Sen. MCCARTHY: Mr. President, I rise in favor of the Committee Report. I think that if this report is not acted on favorably, it could severely hamper appearances of the Partridge Family and the Osmond Brothers in the State of New Hampshire. Speaking for my own family, I know that they think that this would be terribly unfair to them.

Sen. FERDINANDO: Do I understand, Sen. Tufts, that HB 666 has been amended in your Committee?

Sen. TUFTS: No. It was amended in the House to take effect immediately upon passage.

Adopted. Ordered to third reading.

Sen. GARDNER: Mr. President, I move that the Senate reconsider their action whereby SB 118 was indefinitely postponed.

The CHAIR would state that the motion cannot lie at the present time because of Rule IX which states that a question which is postponed indefinitely shall not be acted upon during the same biennium except whenever two-thirds of the whole number of elected senators shall, on division taken, vote in favor thereof. No motion to suspend this rule shall be permitted.

The CHAIR would further explain that the question which is referred to in Rule IX is the subject matter of SB 118. We cannot reconsider our action on the motion that was taken last Thursday.

PARLIAMENTARY INQUIRY

Sen. JACOBSON: I take, by your ruling, that the motion to reconsider does not apply to the motion to indefinitely postpone?

The CHAIR would state that that is the ruling of the Chair.

Sen. JACOBSON: On May 15, 1969, found on page 627 of the *Senate Journal*, a motion to indefinitely postpone prevailed with respect to HB 77. The distinguished senator from the First District moved reconsideration on that motion. Was that motion out of order?

The CHAIR would state that in my opinion, it was, senator.

Sen. JACOBSON: On May 20, 1971 in the House, Rep. Gordon moved reconsideration on an action of indefinite postponement on SB 85. Was that motion out of order?

The CHAIR would state that I am not presumed to make rulings for the House.

Sen. JACOBSON: Is the House rule different from the Senate rule?

The CHAIR would state that there is only one word difference between the House rule and the Senate rule. Substantially, they are the same.

Sen. JACOBSON: If a member of the Senate appeals your ruling, is there opportunity to speak to the question?

The CHAIR would state no.

Sen. JACOBSON: Is there any motion under which one can talk on the question?

The CHAIR would state that at the present time, a ruling of the Chair has been made, but further parliamentary questions could be asked. They would have to be done in the form of parliamentary inquiries.

The CHAIR would attempt to restate the parliamentary situation regarding Sen. Gardner's request for reconsideration on SB 118. Earlier, the Chair, in answer to a parliamentary inquiry, stated that it would take a two-thirds vote. Just shortly, I stated that the motion for reconsideration would not lie until we had disposed of the requirement of the two-thirds vote under Rule IX. The Chair will now rule that a motion to reconsider *can* lie but that it will require a two-thirds vote of the elected membership by a standing vote.

Sen. JACOBSON: Mr. President, as I indicated to you, I am very reluctant to get up on this question except that I believe that there is a principle of parliamentary procedure that is involved in here and that if we accept your ruling, we, as a Senate body, have denied to ourselves a basic procedure under Rule VIII which gives all of the several motions. The motion to reconsider is not a part of those motions as I can see. However, in general practice, it is part of the general structure and our motion of reconsideration is under Rule XIV. In every legislative manual that I know of, it takes a majority vote. Mason's Manual it says that the motion to reconsider can be applied to the motion to indefinitely postpone and that the motion to indefinitely postpone takes on the character of a main motion. Therefore, the motion to reconsider should be by majority vote. As to the question of Rule IX, it is my view that the finality of any action that we take does not actually take place until, as stated in our rules, one-half hour after the beginning of the next day's session. That is, you can apply mo-

tion of reconsideration at any time after the action is taken on a motion, except a procedural motion, and that that extends to the first half hour of the next day's session so that if we accept this ruling, in my view, we are taking from ourselves an opportunity for reconsideration.

I would like to state that this goes entirely apart from the content of the bill. As a matter of fact, I am against reconsideration. But I believe that as a principle, that reconsideration should adhere to every one of the main motions including indefinite postponement and that it should be, as always, under majority rule.

PARLIAMENTARY INQUIRY

Sen. JACOBSON: Mr. President, may I make an appeal now?

The CHAIR would state that an appeal may be made at any time, senator.

Sen. JACOBSON: Mr. President, as I said, reluctantly, I appeal to the motion of the Chair.

PARLIAMENTARY INQUIRY

Sen. KOROMILAS: Mr. President, in a constitutional question where 60 percent of the members are required to make an affirmative decision with respect to the constitutional question, what majority is required in a reconsideration of such a positive action taken on a constitution?

The CHAIR would state that I would like to research that.

PARLIAMENTARY INQUIRY

Sen. NIXON: Mr. President, would it be in order at this time for the Clerk to read Senate Rule IX which I understand this body has adopted as a rule specifically applying to its proceedings?

CLERK: "A question which is postponed indefinitely shall not be acted upon during the same biennium except whenever two-thirds of the whole number of elected senators shall, on division taken, vote in favor thereof. No motion to suspend this rule shall be permitted."

PARLIAMENTARY INQUIRY

Sen. KOROMILAS: Would the Clerk read Rule XIV?

CLERK: "No vote shall be reconsidered unless the motion for reconsideration be made while the bill or the resolution is in the possession of the Senate by a member who voted with the prevailing side nor unless the notice of such motion be given to the Senate in open session prior to adjournment on the same day on which the vote was passed or on the next day on which the Senate shall be in session within one half hour after the convening of the Early Session."

PARLIAMENTARY INQUIRY

Sen. S. SMITH: If I wish to support the ruling of the Chair, do I vote "no?"

The CHAIR would state that if you are in favor of the challenge of the Chair, you will vote "yes." If you are opposed to the challenge of the Chair, you will vote "no."

PARLIAMENTARY INQUIRY

Sen. KOROMILAS: What is required in overturning the ruling of the Chair — a majority or two-thirds?

The CHAIR would state that a majority vote is needed to decide the question of the challenge of the Chair.

Question on the challenge of the Chair.

Division vote: 11 Yeas, 11 Nays. Motion lost.

Question on reconsideration on SB 118.

Sen. SPANOS: Under normal circumstances, being on the opposite side of the fence on this issue that is going to be before us, I would rise and oppose the motion to reconsider, but I will, at this time, let my colleagues know that I am going to rise in favor of reconsideration knowing full well that I think that in the statement that just occurred, we have very definitely hampered ourselves as a deliberative body. I would like to have the senator from the Sixth District have the opportunity to have this matter discussed and re-voted upon.

Sen. MARCOTTEE: I also rise in favor of reconsideration. On SB 118, I was not present at the time and I feel that

it is my duty to at least let my constituents know which way I vote on this. I am hoping the Senate body will allow me this privilege.

Sen. LAMONTAGNE: Mr. President, I also rise in favor. I would like to leave in the minds of all the senators that the Portsmouth store is in trouble because of Kittery reducing their price of liquor in the State of Maine. This additional day of Sunday will help out greatly.

Roll call requested by Sen. Koromilas. Seconded by Sen. Marcotte.

Ayes: Sens. Lamontagne, Snell, Gardner, Jacobson, Spanos, Ferdinando, Morrissette, McCarthy, Provost, Brown, Marcotte, Koromilas, Foley.

Nays: Sens. Poulsen, S. Smith, Townsend, Nixon, English, Porter, R. Smith, Downing, Tufts.

Motion lost. 16 votes having been necessary for adoption.

PARLIAMENTARY INQUIRY

Sen. SPANOS: Mr. President, is there any way that, in this legislative process before us, to change that rule or have we gone beyond the point of changing the Senate Rules?

The CHAIR would state that I assume you are referring back to the ruling of the Chair that it would require a two-thirds vote?

Sen. SPANOS: Yes, Mr. President.

The CHAIR would further call your attention to the last sentence in Rule IX that says "no motion to suspend this rule shall be permitted."

PARLIAMENTARY INQUIRY

Sen. SPANOS: Mr. President, I am not talking in terms of any motion. I am talking in terms of the body itself — the Rules Committee and the Senate voting upon a rule change or a change in the interpretation by the Chair.

The CHAIR would state that a new rule could be adopted by a two-thirds vote.

PARLIAMENTARY INQUIRY

Sen. JACOBSON: Mr. President, your response to my distinguished colleague, Sen. Spanos, means that we could, by two-thirds vote, modify Rule XIV?

The CHAIR would state yes, in my opinion.

ANNOUNCEMENTS

Sen. ENGLISH: Mr. President, I move that the Senate recall from the Governor HB 739, clarifying the law relative to the board of trustees of New Hampshire colleges and equalizing the expiration dates of appointed university trustees. We passed HB 739 on Thursday, 20 May 71 and also HB 751. They both had to do with trustees of the University. A problem arose in the course of discussion in the fact that these bills, to some degree, overlap. It was strongly suggested that it would be helpful if we combined these bills. The Legislative Service is in the process of putting this in order. It avoids inconsistency.

Adopted.

Sen. ENGLISH: Mr. President, I move that the Senate recall HB 751, clarifying the law relative to the board of trustees of New Hampshire colleges and providing for a student member thereof.

Adopted.

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock.

Adopted.

LATE SESSION

Third reading and final passage

SB 158, relative to the assignment of pupils under dual enrollment.

HB 882, relative to the election of candidates and membership of the Mascoma Valley Regional School District.

HB 327, to increase the compensation of the Board of Hairdressers, increase fees, and establish new licensing standards.

SB 107, to reorganize the Commission on Interstate Cooperation and make an appropriation therefor.

HB 658, relative to anatomical gifts.

HB 98, to control snowmobiles and motor vehicles within highway rights-of-way.

HB 220, authorizing the State of New Hampshire to acquire the Contoocook Village Dam in the Town of Hopkinton.

HB 666, permitting eighteen year olds to entertain in lounges and dining rooms.

Adopted.

Sen. Foley moved the Senate adjourn at 3:43 o'clock.

Adopted.

Wednesday

26May71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Guest Chaplain, Msgr. Joseph M. Donahue of the Blessed Elizabeth Seton Roman Catholic Church in Bedford, N. H.

O God, great and ommipotent judge of the living and the dead, before Whom we are all to appear after this short life to give an account of our journey through life here on earth, hear our prayer: Realizing our limitations we ask You to help us; conscious of our obligations as elected rulers of our state we ask You to enlighten us; desiring to make our human laws applications of Your Supreme Law we ask You to guide us; intending to make our laws instruments to insure justice, charity, peace and tranquillity for all our citizens, make us effective. Amen.

Pledge of Allegiance was led by Sen. Nixon.

SEN. S. SMITH IN THE CHAIR

INTRODUCTION OF SENATE BILL

First, second reading and referral

SB 262, relative to the alteration and construction of odometers and the protection of motor vehicle purchasers. (Poulsen of Dist. 2 — To Public Works and Transportation)

HOUSE MESSAGES
INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 336, abolishing the poll tax. (Ways and Means and Administrative Affairs)

HB 360, relative to the assessment of a resident tax for state and local purposes to replace the head tax. (Ways and Means and Administrative Affairs)

HB 617, relative to the deposit of funds with the State Treasurer by the Tax Commission. (Executive Departments, Municipal and County Governments)

HB 649, relative to the administration of the insurance laws. (Judiciary)

HB 888, relative to the practice of professional engineering (Executive Departments, Municipal and County Governments)

HB 915, including surviving spouse of disabled servicemen in the class of person exempt from taxation on a homestead. (Ways and Means and Administrative Affairs)

HB 917, providing for the temporary classification of the position of assistant attorney general in certain cases. (Executive Departments, Municipal and County Governments)

HOUSE CONCURRENCE ON COMMITTEE
OF CONFERENCE REQUEST

SB 116, to prohibit individuals from soliciting rides or business on or in proximity to the traveled portion of a street or highway.

The Speaker appointed as members of said Committee on the part of the House, Reps. Hamel, Greenwood and Woods.

HOUSE CONCURRENCE ON SENATE
AMENDMENT TO

HB 98, to control snowmobiles and motor vehicles within highway rights-of-way.

HOUSE ADOPTION OF COMMITTEE
OF CONFERENCE REPORT

HB 309, relative to unemployment compensation.

HOUSE NON-CONCURRENCE

SB 70, to provide employees with a priority of claim for wages earned.

HOUSE CONCURRENCE

SB 109, legalizing the annual meeting of the Town of Goffstown, March 9, 1971.

SB 165, relative to recreational roads.

REQUEST FOR COMMITTEE OF CONFERENCE

On motion from Sen. Poulsen, the Senate voted to accede to House request for a Committee of Conference on:

HB 220, authorizing the State of New Hampshire to acquire Contoocook Village Dam in the Town of Hopkinton.

The Speaker appointed as members of said Committee on the part of the House, Reps. Raymond, Harry Parker and Huot.

The President appointed as conferees on the part of the Senate, Sens. Poulsen and Lamontagne.

ANNOUNCEMENTS

Sen. ENGLISH: Mr. President, I move that HB 751, clarifying the law relative to the board of trustees of New Hampshire colleges and providing for a student member thereof, be reconsidered at the present time.

This bill and HB 739 were recalled from the Governor and are now in the possession of the Senate. These two bills overlap each other and cause certain mechanical difficulties which have been rectified. This motion which I have made is in order to get them back so that we may act on them.

Motion for reconsideration adopted.

Sen. ENGLISH: Mr. President, I move that HB 751 be placed on second reading at the present time.

Adopted.

Sen. ENGLISH: Mr. President, there is an amendment and I wish the Clerk to read it.

AMENDMENT

Amend the bill by striking out section 3 and inserting in place thereof the following:

3 Terms of July 1, 1971 Appointees. Notwithstanding any provisions of RSA 187 to the contrary, the members of the board of trustees of the University of New Hampshire who are appointed by the Governor to fill the six vacancies occurring because of the ending of the terms of office of six members on June 30, 1971, shall be appointed by him as follows:

- I. Three for a term expiring June 30, 1975;
- II. One for a term expiring June 30, 1976;
- III. One for a term expiring June 30, 1977; and
- IV. One as the student member provided for by RSA 187:5, III.

4 Effective Date. This act shall take effect July 1, 1971.

Sen. ENGLISH: Mr. President, this does exactly what the bill did before only in clearer form and will eliminate the need for HB 739.

PARLIAMENTARY INQUIRY

Sen. KOROMILAS: I think that I heard the Clerk read that this would go into effect in 1972?

The CHAIR would state that as he reads the amendment, for Effective Date. This act shall take effect July 1, 1972. It will be changed to read July 1, 1971.

Amendment adopted. Ordered to third reading.

Sen. ENGLISH: Mr. President, I move that the Senate reconsider its action whereby it passed HB 739, clarifying the law relative to the board of trustees of New Hampshire colleges and equalizing the expiration dates of appointed university trustees.

Adopted.

Sen. ENGLISH: Mr. President, I further move that HB 739 be placed on second reading at the present time.

Adopted.

Sen. ENGLISH: Mr. President, I move that HB 739 be made inexpedient to legislate. The reason for this is that HB 739 is no longer of interest. The student member of the board of trustees has been incorporated into HB 751. This is the clarification I mentioned earlier.

Resolution adopted.

COMMITTEE REPORTS

SB 144

relative to the limitations on the loaning authority of cooperative banks, building and loan associations and savings and loan associations. Ought to pass with amendment. Sen. Poulsen for Banks, Insurance and Claims.

AMENDMENT

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Amend RSA 387:4; 1, by striking out the word "or" in line 43 and by inserting in the same line after the word "purchase" the following (or (4) that portion of a loan guaranteed by a private mortgage guaranty insurance company licensed to do business in the state of New Hampshire and approved by the bank commissioner, or (5)) so that said section as amended shall read as follows.:

387:4 Real Estate and Tangible Personal Property. The following described loans are legal investments:

1 Real Estate in New Hampshire and Contiguous States. Those directly secured by first mortgages on real estate situated within this state or within any state contiguous to this state; but no such investment shall be in a loan which exceeds seventy-five per cent of the value of the real estate by which it is secured; except that investment may be in a loan which exceeds seventy-five per cent but not ninety per cent of the value of the real estate by which it is secured, provided that it shall be secured by a first mortgage on real estate containing one or more dwelling units for not more than four families each and which mortgage or mortgage note shall provide for payment of the note within a period of thirty years from the date when the first monthly payment shall become due, and the first monthly payment shall become due nine months from the date of the note or one month from the final disbursement of funds, which ever shall first oc-

cur, and which payments, so long as the balance of the loan exceeds seventy-five per cent of the value of the real estate by which it is secured, shall include a proportionate share of the amount necessary to pay real estate and other taxes upon such property. No loan or mortgage shall be made except upon written application showing the date, name of applicant, amount asked for and security offered, and except upon report of not less than two members of the board of trustees or board of directors, who shall certify on said application, according to their best judgment, on the basis of an appraisal made by one of their members or by some officer of the banks, or some appraiser employed by the bank for the purpose of appraisal, the value of the premises to be mortgaged; and such application shall be filed and preserved with the records of the corporation. The premises so mortgaged shall be revalued in the same manner at intervals of five years so long as they are mortgaged to the bank, provided that such revaluation may be omitted on any such fifth anniversary if on such date the ratio of the unpaid principal balance of the loan to the last prior appraised value of the premises is less than fifty per cent. If as a result of any revaluation the amount of the loan is found to be in excess of the authorized percentage of the value of the premises mortgaged, a sufficient reduction in the amount of the loan shall be required, as promptly as may be practical, to bring the loan to within the authorized percentage. In determining whether any loan exceeds the authorized percentage of the value of the real estate, no consideration shall be given to (1) that portion of the obligation which is guaranteed by the Administrator of Veterans Affairs under Title III of the Servicemen's Readjustment Act of 1944, as amended from time to time, or (2) an obligation wholly guaranteed under such title, or (3) that portion of any loan or obligation which the Small Business Administration has unconditionally agreed to purchase, or (4) that portion of a loan guaranteed by a private mortgage guaranty insurance company licensed to do business in the state of New Hampshire and approved by the bank commissioner or (5) that portion of a loan on industrial real estate guaranteed by the state of New Hampshire under RSA 162-A:14-a-c, or guaranteed by any state contiguous to New Hampshire under terms providing security equal to or greater than those of RSA 162-A:14-a-c. No bank shall be restricted to the above authorized percentages on a loan secured by property which the borrower is purchasing from the bank.

Sen. POULSEN: Mr. President, SB 144, introduced by Sen. Smith, has to do with the limitations on the loaning authority of cooperative banks, building and loan associations and savings and loan associations. It actually gives them the right to take advantage of private mortgage guarantee insurance company procedures which essentially guarantees the unbalanced part of a mortgage. In other words, it gives them a little bit wider scope of the properties that would fit in as being applicable to mortgage.

The amendment to it, which was introduced in the Senate hearing, included savings banks in the same category. Under the terms of this amendment, not only do these savings and loan and building and loan associations, but also savings banks have the legal right to use mortgage guarantee services. We recommend the bill ought to pass.

Amendment adopted.

Sen. POULSEN: Mr. President, I have a further amendment for the bill because the first amendment referred to a wrong RSA. It referred only to the RSA that had to do with savings and loan associations and didn't refer to the RSA that had to do with savings banks. I now introduce an amendment which takes care of that.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

relative to the limitations on the loaning authority of savings banks, cooperative banks, building and loan associations and savings and loan associations.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Savings Bank. Amend RSA 387:4, I by inserting in line 43 after the numeral "(4)" the following (that portion of a loan guaranteed by a private mortgage guaranty insurance company licensed to do business in the state of New Hampshire and approved by the bank commissioner, or (5)) so that said paragraph as amended shall read as follows: I. REAL ESTATE IN NEW HAMPSHIRE AND CONTIGUOUS STATES.

Those directly secured by first mortgage on real estate situated within this state or within any state contiguous to this state; but no such investment shall be in a loan which exceeds seventy-five per cent of the value of the real estate by which it is secured; except that investment may be in a loan which exceeds seventy-five per cent but not ninety per cent of the value of the real estate by which it is secured, provided that it shall be secured by a first mortgage on real estate containing one or more dwelling units for not more than four families each and which mortgage or mortgage note shall provide for payment of the note within a period of thirty years from the date when the first monthly payment shall become due, and the first monthly payment shall become due nine months from the date of the note or one month from the final disbursement of funds, whichever shall first occur, and which payments, so long as the balance of the loan exceeds seventy-five per cent of the value of the real estate by which it is secured, shall include a proportionate share of the amount necessary to pay the real estate and other taxes upon such property. No loan or mortgage shall be made except upon written application showing the date, name of applicant, amount asked for and security offered, and except upon report of not less than two members of the board of trustees or board of directors, who shall certify on said application, according to their best judgment, on the basis of an appraisal made by one of their members, or by some officer of the bank, or some appraiser employed by the bank for the purpose of appraisal, the value of the premises to be mortgaged and such application shall be filed and preserved with the records of the corporation. The premises so mortgaged shall be revalued in the same manner at intervals of five years so long as they are mortgaged to the bank, provided that such revaluation may be omitted on any such fifth anniversary if on such date the ratio of the unpaid principal balance of the loan to the last prior appraised value of the premises is less than fifty per cent. If as a result of any such revaluation the amount of the loan is found to be in excess of the authorized percentage of the value of the premises mortgaged, a sufficient reduction in the amount of the loan shall be required, as promptly as may be practical, to bring the loan to within the authorized percentage. In determining whether any loan exceeds the authorized percentage of the value of the real estate, no consideration shall be given

to (1) that portion of the obligation which is guaranteed by the Administrator of Veterans Affairs under Title III of the Servicemen's Readjustment Act of 1944, as amended from time to time, or (2) an obligation wholly guaranteed under such title, or (3) that portion of any loan or obligation which the Small Business Administration has unconditionally agreed to purchase, or (4) that portion of a loan guaranteed by a private mortgage guaranty insurance company licensed to do business in the state of New Hampshire and approved by the bank commissioner, or (5) that portion of a loan on industrial real estate guaranteed by the state of New Hampshire under RSA 162-A:14-a-c, or guaranteed by any state contiguous to New Hampshire under terms providing security equal to or greater than those of RSA 162-A:14-a-c. No bank shall be restricted to the above authorized percentages on a loan secured by property which the borrower is purchasing from the bank.

3 Effective Date. This act shall take effect sixty days after its passage.

Amendment adopted. Ordered to third reading.

SB 155

to require medical payment provisions in automobile liability insurance policies. Ought to pass with amendment. Sen. Leonard for Banks, Insurance and Claims.

Amend the bill by striking out section 1 and 2 and inserting in place thereof the following:

1 Medical Payment Coverage Required. Amend RSA 268 by inserting after section 15-a the following new section: 268:15-b Medical Payments. No motor vehicle liability policy, as defined in RSA 268:1, shall be issued or delivered in this state unless coverage is provided therein or supplemental thereto in an amount equal to or greater than two thousand dollars per person for medical costs incurred as a result of injuries sustained in an accident involving the insured motor vehicle, trailer, or semi-trailer. Provided that said coverage shall apply only to medical costs incurred during one year following the date the injuries are sustained.

2 Subrogation prohibited. The right of subrogation against any third party shall not exist or be claimed in favor of the insurer who has paid or reimbursed, to or for the benefit of an insured, medical costs under the coverage provided for in the foregoing section.

3 Effective Date. This act shall take effect sixty days after its passage.

Sen. NIXON: Mr. President, this bill, which was sponsored by Sen. Leonard, provides for the addition to automobile liability insurance policies sold in New Hampshire of medical payments coverage. That is the coverage which provides for the payment without any establishment of fault to named insured, residents of his household and so forth of all their medical bills incurred within one year of the date of an accident as a result of such an accident. The coverage would be up to a limit of \$2,000 and it is felt by the Committee that this would be a beneficial step in regard to the law of New Hampshire.

The New Hampshire Bar Association through its Board of Governors and its able president, the distinguished attorney, Frederick K. Upton of Concord has called the attention of several of us that there ought to be a definition of adequate payments covered in the bill itself. It is not so defined at the present time. Rather than recall the bill or attempt to amend it from the floor, I am merely going to read into the *Journal* the definition prepared by Attorney Upton for the benefit of the House Judiciary Committee, presuming this Senate acts favorably on the bill in its amending process.

Definition of Medical Payments Coverage. Amend RSA 268:1 by adding thereto immediately after paragraph VII the following new paragraph:

VIII. "Medical payments coverage," contract to pay, regardless of fault subject to such reasonable conditions and exclusions as the insurance commissioner may approve, all reasonable expenses incurred within one year from the date of accident for necessary medical, surgical, X-ray, and dental services, including prosthetic devices, and necessary ambulance, hospital, professional nursing and funeral services (a) to or for the named insured and each relative of the named insured who is a resident of the same household who sustains bodily injury, sickness or disease, including death resulting therefrom, herein collectively called "bodily injury," caused by accident, (i) while occupying a motor vehicle, or (ii) through being struck by a motor vehicle or by a trailer of any type; and (b) to or for any other person who sustains bodily injury, caused by accident while occupying the owned motor vehicle.

This definition of medical payments coverage is a compilation of the definitions which appear in several existing automobile insurance policies in this state, the coverage now being optional. It is felt that it would be in the best interest of both the public and the insurance industry that there be a statutory single definition of the medical payments coverage for the clarification of all. That is why I have read it into the record. The Committee Report is "ought to pass with amendment."

Amendment adopted. Ordered to third reading.

SB 222

clarifying the law concerning the merger of insurance companies. Ought to pass. Sen. Nixon for Banks, Insurance and Claims.

Sen. NIXON: Mr. President, SB 222 was sponsored by myself and its purpose by way of being a housekeeping bill is to clarify the law as it relates here in New Hampshire to the merger of insurance companies. There are already specific statutory proceedings for the merger of railroads and other business corporations, but none specifically relating to insurance companies. This bill would fill that gap.

In addition, SB 222 would extend the merger provisions to insurance companies which were organized under general law and also insurance companies organized pursuant to a special charter because there are some insurance companies in this state which were organized under the special charter provisions by special enactment of the Legislature and the present law does not specifically provide for the merger of companies so organized. Again, this bill would fill those two gaps. The Committee Report is "ought to pass."

Adopted. Ordered to third reading.

HB 90

relative to the purchase of waters or lands by the Director of Fish and Game and making an appropriation therefor. Ought to pass. Sen. R. Smith for Finance.

Sen. R. SMITH: Mr. President, HB 90 has an appropriation of \$66,000 on the Fish and Game funds in order to make use of monies currently available under the Pitman-Robinson Act and the Dingle-Johnson Act. This appropriation has to be made and the money incumbered before June 30, 1971. The money is currently available but cannot be utilized without this bill being passed.

Section 2 of the bill sets up a sub account for the funds received as a result of the sale of the fish hatchery in Merrimack. This in order that the Fish and Game Commission may utilize these same funds for the building of a new fish hatchery when the site is determined.

Sen. MORRISSETTE: Why is it necessary to build another hatchery? I understand that there is a federal program whereby we can get all the fish that we want. Can you verify that?

Sen. R. SMITH: I could not answer that question one way or the other right now.

Adopted. Ordered to third reading.

(Sen. Nixon in the Chair)

SB 93

relative to workmen's compensation to state employees. Ought to pass. Sen. Tufts for Ways and Means and Administrative Affairs.

Sen. S. Smith reported favorably and urged adoption.

Adopted. Referred to Committee of Finance under the Rules.

RECALL FROM THE GOVERNOR

Sen. Koromilas moved that HB 249, relative to the definition of permanently and totally disabled be recalled from the Governor.

Sen. Koromilas spoke on the motion.

Motion adopted.

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock.

Adopted.

(Sen. Smith in the Chair)

LATE SESSION

Third reading and final passage

HB 751, clarifying the law relative to the board of trustees of New Hampshire colleges and providing for a student mem-

ber thereof.

Adopted.

Sen. KOROMILAS: Mr. President, I move that SB 144 be laid on the table.

Adopted.

SB 155, to require medical payment provisions in automobile liability insurance policies.

Sen. Spanos moved reconsideration. Motion lost.

SB 222, clarifying the law concerning the merger of insurance companies.

HB 90, relative to the purchase of waters or lands by the Director of Fish and Game and making an appropriation therefor.

Adopted.

Sen. Ferdinando moved the Senate adjourn at 1:58 o'clock. Adopted.

Thursday

27May71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Guest Chaplain, Rev. Neil L. Iverson of the Trinity United Church in Seabrook, N. H.

Our Father God, in whom we have our being; grant we beseech Thee, that those who have gathered here to represent the people of New Hampshire may work together in their legislation to bring about that which is best for our people. May this body think with a clear mind and be aware of the duties that have been bestowed upon them. Grant each member insight, that the decisions made here today will benefit all the citizens within the confines of our State. We ask it in the name of our Lord, Jesus Christ. Amen.

Pledge of Allegiance was led by Sen. Brown.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 263, establishing a Department of Environmental Control and merging therein the Department of Fish and Game, the Department of Agriculture, the Divisions of Parks and Resources Development of the Department of Resources and Economic Development, the Water Supply and Pollution Control Commission, the Water Resources Board and the Office of State Planning. (Morrissette of Dist. 16 — To Executive Departments, Municipal and County Governments.)

SB 264, relative to the prefinancing by the state of state and federally funded sewer projects. (Poulsen of Dist. 2 — To Finance.)

SB 265, providing for the salary of the clerk of the Portsmouth District Court. (Foley of Dist. 24 — To Executive Departments, Municipal and County Governments.)

SB 266, relative to ordinary death benefits for certain group I members of the New Hampshire retirement system. (Bradshaw of Dist. 10 — To Ways and Means and Administrative Affairs.)

SJR 22, in favor of Stephen W. Rollins. (Gardner of Dist. 6 — To Banks, Insurance and Claims.)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 779, establishing rules of the road for the operation of bicycles. (Public Works and Transportation)

HB 815, providing for certificates of need for health care capital expenditures. (Public Health, Welfare and State Institutions)

HB 893, enacting the white cane law. (Public Health, Welfare and State Institutions)

HB 935, relative to proof of ownership of motor vehicles. (Public Works and Transportation)

HB 773, relative to recording instruments with the register of deeds. (Executive Departments, Municipal and County Governments)

ENROLLED BILLS REPORT

HB 658, relative to anatomical gifts.

HB 882, relative to the election of candidates and membership of the Mascoma Valley Regional School District.

SB 165, relative to recreational roads.

SB 109, legalizing the annual meeting of the town of Goffstown, March 9, 1971.

HB 327, to increase the compensation of the board of hairdressers, increase fees, and establish new licensing standards.

Sen. Ferdinando
For The Committee

COMMITTEE REPORTS

HB 709

relative to the use of credit union funds. Ought to pass. Sen. Ferdinando for Banks, Insurance and Claims.

Sen. FERDINANDO: Mr. President, HB 709 adds a new section 5 which allows credit unions to invest in any particular securities in which the savings banks have the same right as other institutions. The Committee, in its wisdom, recommends that it be passed.

Adopted. Ordered to third reading.

HB 735

relative to unpaid rent for safe deposit boxes. Ought to pass. Sen. Poulsen for Banks, Insurance and Claims.

Sen. FERDINANDO: Mr. President, HB 735 merely changes the amount of time that the bank may maintain a safety deposit box after it has not been paid. The existing law requires that no action will take place for two years. This bill would change it to six months so that in the event that a person did not pay, after six months proper notification would take place. The box would then be opened in the presence of the bank president or treasurer and the contents would be sealed and placed in one of the storage vaults of said corporation. It remains there for a period of seven years and then the contents are turned over to the State of New Hampshire. The Committee felt that this bill should be passed.

Adopted. Ordered to third reading.

HB 730

relative to changing unsecured loan limitations of building and loan associations, cooperative banks or savings and loan associations. Ought to pass with amendment. Sen. Morrissette for Banks, Insurance and Claims.

AMENDMENT

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Unsecured Loans. Amend RSA 393:15-a, III (supp) as inserted by 1955, 140:1 and amended by 1957, 194:1, 1967, 205:1 and 1969, 128:1 by striking out said paragraph and inserting in place thereof the following: III. In loans, with or without security, for any purpose, provided that no such loan to any one person shall exceed five thousand dollars, such loan to be repayable on demand or in regular monthly installments within a period of five years, however, if the indebtedness is incurred for the purpose of mobile home financing and the mobile home is taken as security, such mobile home loan shall not exceed eight-five hundred dollars and such loan shall be repayable in regular monthly installments within a period of twelve years for new mobile home units and ten years for used mobile home units. An association which takes under this paragraph a note payable on demand shall demand payment of said note not later than one year from the date thereof, but may accept a new note in payment of such demand note. A loan association or cooperative bank may make mobile home loans insured or guaranteed by the Federal Housing Administration or the Veterans Administration. However, the limitations of this paragraph relating to the amount of such financing may be exceeded provided that the loan shall be fully insured or fully guaranteed by the Federal Housing Administration or the Veterans Administration to the extent of the amount of the loan in excess of said limitations.

Sen. MORRISSETTE: Mr. President, we had a hearing relative to HB 730. This permits smaller banks such as credit unions to loan money on mobile homes. The amendment reduces the amount from \$10,000 to \$7,500. This would be proper in terms of the popularity of mobile homes.

Amendment adopted. Ordered to third reading.

SB 174

relative to education for all handicapped children. Ought to pass. Sen. Jacobson for Education.

Sen. JACOBSON: Mr. President, SB 174 provides for the education of all handicapped children. In the present statute, it is permissive kind of legislation and in this chapter, it establishes the right of handicapped to education within the limits of their capability.

Sen. MORRISSETTE: Mr. President, I am highly favorable to this bill. There is absolutely no need, regardless of how tight a budget we might have, to disregard education of these handicapped or retarded children. I hope everyone will vote, in favor and I would like to compliment Sen. Jacobson for his thoughtfulness.

Adopted. Ordered to third reading.

SB 180

relative to the inclusion of certain pupils from partially closed nonpublic schools in the computation of state aid due school districts. Ought to pass. Sen. Jacobson for Education.

Sen. JACOBSON: Mr. President, SB 180 was introduced by myself on behalf of the Department of Education in order to bring about a procedure with regards to the closing of nonpublic schools so that the part of state aid may be more clearly established where there is a closing of nonpublic schools.

Adopted. Ordered to third reading.

SB 123

relative to enabling local municipalities to appropriate funds for assistance to the aged. Ought to pass. Sen. S. Smith for Executive.

Sen. S. SMITH: Mr. President, SB 123 enables legislation which allows towns to establish programs and make expenditures for programs for the aged. Many towns have park and recreation commissions who desire to have programs for older people and under the existing law, they cannot get funds or state participation in this. I hope the Senate will concur with the Committee.

Adopted. Ordered to third reading.

SB 157

providing that towns shall pay for damage to livestock caused by any canine. Ought to pass. Sen. Poulsen for Executive.

Sen. POULSEN: Mr. President, SB 157, introduced by Sen. Townsend, defines a dog to keep the various fox and wolf groups out of the distinction. It defines them by saying "any member of the family Canidae, except the red and gray fox, is a dog."

Adopted. Ordered to third reading.

SB 167

relative to monthly payment of local taxes by certain taxpayers. Inexpedient to legislate. Sen. Poulsen for Executive.

Sen. POULSEN: Mr. President, SB 167, introduced by Sen. Morrisette, is undoubtedly well meant and will come in sooner or later but the Committee felt that at this time, towns were incapable of the bookkeeping involved in receiving taxes monthly. Because of this, we move it inexpedient to legislate.

Resolution adopted.

SB 168

relative to citizens rights to be heard at municipal budget hearings. Inexpedient to legislate. Sen. Jacobson for Executive.

Sen. JACOBSON: Mr. President, SB 168 has, as its intention, the establishment of certain procedures with regards to the rights of citizens to examine municipal officials and to answer certain questions at budget hearings or municipal budget meetings. The Committee felt that to get into the area of legislating parliamentary procedure goes beyond what is the normative processes for legislation and therefor recommends that it be inexpedient to legislate.

Sen. MORRISSETTE: I introduced these two bills at the request of the Taxpayers Association and I do concur with the ruling of the Committee. I would like to express that this last bill in particular was as a result of a so-called hearing. It was supposed to be intended to be like a town meeting, but when the people got to the hearing, they couldn't speak up and could not express their wishes. The reason I concur with the Committee is that I feel that the good that would come out of it would be probably far less than the bad that might come as a result of having it.

Resolution adopted.

SB 171

relative to Sunday dancing in hotels and certain restaurants. Ought to pass. Sen. S. Smith for Executive.

Sen. S. SMITH: Mr. President, SB 171 was requested by the Hotel and Motel Association. Since Congress has authorized many of our legal holidays to fall on Monday, it means that in the resort area, there may be problems with programming of planned recreation and entertainment in the evening and that people may say, "Well, there is nothing going on — let's go home." This is to help make a weekend pleasurable over the long haul and I would hope that the Senate would concur with the Committee.

Sen. KOROMILAS: Would you believe that if a person is leaving one of these parties that later on he might drink a little more alcohol and might cause some death on the road?

Sen. S. SMITH: No, I don't. I think this is primarily for resort areas where people are staying over the weekend and overnight.

Adopted. Ordered to third reading.

HB 190

providing for competitive examinations for the selection and promotion of police officers and establishing a probationary period for newly selected police officers in towns. Inexpedient to legislate. Sen. Poulsen for Executive.

Sen. POULSEN: Mr. President, HB 190, introduced by Rep. Gay, takes care of examining policemen, but also adds the stipulation that in one year's time, the police shall either be retained or discharged. Apparently, as we read and understand it, it would give tenure to policemen who served one year and we don't believe that a year is enough and we didn't approve of the tenure bit. In fact, the Municipal Association decided in their analysis of this that it was much better to have it so the policemen were hard to get hold of and easy to get rid of so we have moved it inexpedient to legislate.

Sen. MORRISSETTE: Do you feel that it might be in the public interest for police officials to be promoted through the means of examinations than through politics?

Sen. POULSEN: In many towns, the chief, after a period of time, does become voted in as chief in which case, the problem is eliminated.

Sen. MORRISSETTE: What about in the cities where the situation is almost strictly politics?

Sen. POULSEN: I don't know. I don't like the idea of a policemen having a job for one year and then having the job for life because they can turn quite sour. We have had the experience in some small towns. Once a town is stuck with a policeman they don't like, it is very difficult to get rid of him. This would make it impossible.

Resolution adopted.

HB 477

relative to fees for registration as professional engineer. Ought to pass. Sen. Poulsen for Executive.

Sen. POULSEN: Mr. President, HB 477, introduced by Rep. Page, merely raises the fees for registration of professional engineers and raises the yearly rate. We are in favor of it on the basis that undoubtedly the expenses of the association are higher now than they were.

Sen. PORTER: What are the old fees and what are the new fees?

Sen. POULSEN: The words, "thirty dollars, fifteen" are replaced by "forty dollars, twenty". "Seven dollars and fifty cents" is replaced by "ten dollars". "The registration fee for professional engineers shall be forty dollars, twenty dollars of which shall accompany application, the remaining twenty dollars to be paid upon issuance of certificate."

Adopted. Ordered to third reading.

HB 621

increasing the authorized debt limit of the Pelham School District and the Windham School District. Ought to pass. Sen. Poulsen for Executive.

Sen. POULSEN: Mr. President, HB 621 increases the authorized debt limit of the Pelham School District and the Windham School District which combined together in order to make a new school. The 12 percent figure that this recommends is high enough to allow them to go ahead. The old figure was not adequate. It just raises the percentage of their tax that they can appropriate for this bill.

Sen. DOWNING: Mr. President, I rise in favor of the motion. There is a reorganization of supervisory union and there is a real possibility that the towns of Pelham and Windham will have to get involved building a secondary school.

Adopted. Ordered to third reading.

HB 519

relative to the fees charged in the registry of deeds of Carroll County. Ought to pass. Sen. S. Smith for Executive.

Sen. S. SMITH: Mr. President, HB 519 simply legalizes fees which have been charged without statutory authority. There is no change in the fees but leaves the fees at the existing rate. All it does is to add it to the statute.

Adopted. Ordered to third reading.

HB 528

authorizing town treasurers to deposit moneys in insured savings accounts. Ought to pass. Sen. S. Smith for Executive.

Sen. S. SMITH: Mr. President, HB 528 authorizes town treasurers, as the title indicates, to deposit monies in insured savings accounts. Many towns already do this, however, the statutes and the legality of this has not been cleared. This is primarily to make it clear that these funds may be established in these accounts.

Adopted. Ordered to third reading.

HB 541

relative to town appropriations for Independence Day. Ought to pass. Sen. Jacobson for Executive.

Sen. JACOBSON: Mr. President, on July 4, 1776 this country declared its independence from the mother country of Great Britain. For some strange reason, that great act which we now consider an act of highest patriotism, though at the time, an act of revolution, does not have authorization for celebration in the municipalities and towns of this state at the present time. No town may appropriate funds for the celebration of July 4. Surely, as we enter into this revolutionary age, in celebration of our 200th Anniversary, it seems appropriate that the cities and towns in New Hampshire may appropriate funds for such a purpose as this — July 4. This bill authorizes this by statute under the general statute of Chapter 31:4 where the Legislature grants to the municipalities certain powers.

Adopted. Ordered to third reading.

HB 671

to provide for historic districts in towns without zoning. Ought to pass. Sen. Jacobson for Executive.

Sen. JACOBSON: Mr. President, under the statutes of New Hampshire, towns may establish historic districts and commissions are established to manage these historic districts. There are, at the present time, about 15 of these. What this bill does is to give these historic commissions the power of zoning and planning which goes to zoning and planning boards at the present time, limited, of course, to the zoning and planning of the historic district for which the commission has the responsibility.

Adopted. Ordered to third reading.

(Sen. Porter in the Chair)

HJR 31

providing for taking the sense of the legal voters of the state on the question of calling a constitutional convention. Ought to pass. Sen. S Smith for Executive.

Sen. S. SMITH: Mr. President, HJR 31 provides for a referendum on the question of whether or not there should be a state constitutional convention and this is by statute, by constitution, that this should be done every 10 years. The time is here. I hope that the Senate will give it favorable consideration.

Adopted. Ordered to third reading.

SB 15

raising the population figure of cities that require sealer of weights and measures and providing an appropriation for the administration of the weights and measures act. Ought to pass. Sen. R. Smith for Finance.

Sen. R. SMITH: Mr. President, at the present time, the Department of Agriculture inspects all weights and measures in cities and towns up to 17,000 population. This bill raises that figure to 35,000 but makes it permissive in the 17,000 to 35,000 range. In other words, if a city desired to have the state take over inspection of weights and measures, they could vote by their town or city council to do so. It contains an appropriation for two additional inspectors of weights and measures to take on the additional work caused not only by this, but by additional work taken on in 1969 for which no appropriation was made.

Adopted. Ordered to third reading.

SUSPENSION OF THE RULES

Sen. R. SMITH: Mr. President, I move suspension of the rules so as to allow for the introduction of a committee report without a public hearing.

Adopted.

SJR 16

reimbursing the members of the committee studying the economic potentials and development potentials of Mount Sunapee State Park for mileage expense incurred. Ought to pass with amendment. Sen. R. Smith for Finance.

AMENDMENT

Amend the resolution by striking out all after the resolving clause and inserting in place thereof the following:

That the sum of twenty-four dollars is hereby appropriated, to be paid members of a study commission established in accordance with Laws of 1969, chapter 541, for compensation for mileage in connection with a meeting held at Mount Sunapee State Park in Newbury on January 5, 1971. Mileage shall be paid members at the rate established by RSA 99-A:1. Said sum hereby appropriated shall be a charge upon the legislature appropriation.

Sen. R. SMITH: Mr. President, SJR 16 is a \$24 appropriation to reimburse members of the House and Senate who attended a meeting during that brief period of time in which there is no Legislature.

Amendment adopted. Ordered to third reading.

SB 88

relative to the Robert Frost Homestead Foundation. Ought to pass with amendment. Sen. R. Smith for Finance.

AMENDMENT

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Appropriation. The sum of four thousand dollars is hereby appropriated to the Robert Frost Homestead Foundation, a New Hampshire nonprofit corporation. No portion of said sum shall be used to reimburse the Division of Parks, Department of Resources and Economic Development for expenses in-

curred in the production and printing of a brochure for the Frost Homestead. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

2 Effective Date. This act shall take effect sixty days after its passage.

Sen. R. SMITH: Mr. President, during the King Administration, the State of New Hampshire acquired the so-called Robert Frost Homestead located in Derry, New Hampshire. The property was in a deplorable state of condition at that time and I don't know if the situation has improved that much since, but the state, by owning this property, is obligated to put it in a condition that is suitable for a historical site. There has also been established a Robert Frost Homestead Foundation which will seek funds to restore the inside of the home to the condition of the time when Robert Frost resided there. This \$4,000 appropriation is to the Foundation to show our good faith and to aid them in their initial efforts.

The bill was amended from a \$5,000 figure down to a \$4,000 figure: \$1,000 was to reimburse the Department of Resources and Economic Development for a brochure which they printed.

Amendment adopted. Ordered to third reading.

SB 185

increasing the exemptions from attachment and execution of certain property. Ought to pass. Sen. Jacobson for Judiciary.

Sen. NIXON: Mr. President, SB 185 was introduced by Sen. Spanos. Its purpose is to increase in five situations the amount of the exemption from attachment of certain properties of people here in New Hampshire. Under present law, specifically Chapter 511 of the *Revised Statutes Annotated of New Hampshire*, Section 2, there are listed items which are exempt from creditors' attachments here in New Hampshire. This bill, if passed, would increase the amount of furniture exempted from attachment from \$500 to \$1,000; the amount of provisions and fuel exempt from attachment from \$100 to \$200; the dollar value of bibles, books and libraries exempt from attachment from \$200 to \$400; the amount of tools exempt from attachment from \$300 to \$600; and the value of domestic fowl exempt from attachment from \$75 to \$150.

As a historical note, the Senate may be interested in knowing that now, if this bill passes, exempt from attachment will be the following: the wearing apparel necessary for the use of the debtor and his family; comfortable beds, bedsteads and bedding necessary for the debtor, his wife and children; household furniture to the value of \$1,000; one cooking stove and the necessary furniture belonging to the same; one sewing machine, kept for use by the debtor or his family; provisions and fuel to the value of \$200; the uniform, arms and equipment of every officer and private in the militia; the bibles, school books and library of any debtor, used by him or his family, to the value of \$400; tools of his occupation to the value of \$600; one hog and one pig, and the pork of the same when slaughtered; six sheep and the fleeces of the same; one cow; a yoke of oxen or a horse, when required for farming or teaming purposes or other actual use; and hay not exceeding four tons; domestic fowls not exceeding \$150 in value; the debtor's interest in one pew in any meeting-house in which he or his family usually worship; and the debtor's interest in one lot or right of burial in any cemetery.

Seriously, Mr. President, we feel that SB 185 has merit, and that those of our citizens who are forced to live in circumstances of poverty *should* have the minimal protection against lawsuits, attachments, sheriffs' sales and the like provided for in Sen. Spanos' bill. Thus, the recommendation that the bill ought to pass.

Sen. SPANOS: I appreciate the frivolity engendered by the colloquy so far as it *is* a subject which lends to "fun-making."

However, lest the House members feel that we are passing this measure in a jocular vein, I would like to rise and go on record that this legislation is a serious nature to me and to those it seeks to protect.

Most of the exemptions from attachments read by Sen. Nixon are found in our law books. My bill merely affects 4 areas that are in the Statutes; furniture, tools, libraries and domestic fowl. The last time these exemptions were changed was in 1953 — and I don't have to tell you that the cost of the items have significantly increased since then. As a matter of fact, one or two items of furniture today would exhaust the exemption and the rest would be subject to attachment. I don't

think this is right and I hope this Chamber will go along.

Adopted. Ordered to third reading.

CACR 29

RELATING TO; Compensation and Reimbursement for Expenses of Members of the General Court. PROVIDING THAT: Members shall receive a per diem of twenty-five dollars, travel allowance of one round trip per legislative day and reimbursement for actual expenses. Ought to pass with amendment. Sen. Jacobson for Judiciary.

AMENDMENT

Amend the resolution by striking out article I and inserting in place thereof the following:

I. Resolved, That Article 15 of Part Second, (supp) as amended in 1960, of the Constitution of New Hampshire, be amended by striking out said article and inserting in place thereof the following:

[Art.] 15. [Compensation of the Legislature.] Each member of both houses of the legislature, seasonably attending and not departing without license, shall severally receive, as compensation in full for his services for the term elected, the sum of twenty-five dollars a day for each legislative day attended; and in addition thereto a travel allowance for one round trip per legislative day for each day during which he is at any time in actual attendance, at the same rate provided by statute for state officials and employees.

Amend article IV by striking out the same and inserting in place thereof the following:

IV. Resolved, That the sense of the qualified voters shall be taken by ballot upon the following question submitted to them by the General Court:

Are you in favor of amending the Constitution to provide that members of the legislature shall receive as compensation twenty-five dollars for each day's attendance, and travel for one round trip each legislative day at the rate regularly paid to state employees.

Sen. JACOBSON: Mr. President, CACR 29 relates to the question of compensation. As all will recall, we had a proposal

on the ballot last time to establish a compensation commission. At that time, it did not pass and in the course of the debate, various newspapers including the *Manchester Union Leader* came out in support of a per diem compensation for members of the Legislature. On that basis, recognizing that the present \$200 for a biennium is essentially ludicrous, based upon an economy that was far different in 1880 than it now is in 1971 that some change ought to be made. Conceivably, this might pass the people; it would require that the representatives and senators be in attendance in order to get the money and would also require that they would receive their rate of pay on the state level rather than the way we do at the present time.

The amendment takes out the matter of giving their room and meals to stay overnight. The Committee felt that that might be opened to abuse and the amendment removes that part of the proposal.

Sen. MORRISSETTE: Did the Committee consider raising this amount in order to attract people who would like to become legislators on a full-time basis?

Sen. JACOBSON: We have not come to any point of view concerning what establishes a full-time legislator. Every proposal that has been made still limits the session to 90 days.

Sen. KOROMILAS: What is the cost of this going to be over what is now paid to the legislators?

Sen. JACOBSON: The total of this would be about \$1 million. At present, I don't know what the figure is.

Sen. SNELL: Do you feel that the State has the necessary revenue to offset this additional \$800,000 to \$1 million for this type of program.

Sen. JACOBSON: Well, even if this bill should pass, it would go to referendum some time in 1972 so it is not an issue with regards to the present budgetary problems.

Sen. MORRISSETTE: Do you feel this increase will make a difference in the quality of the legislators?

Sen. JACOBSON: I don't want to make a judgment on this quality. That is a judgment that the people must make. My own view is that this compensation would be fair.

Sen. KOROMILAS: Is this CACR complete or will it require some change in the House with respect to the determination made by the Supreme Court? Does it have any provision with respect to time and mode?

Sen. JACOBSON: No.

Sen. KOROMILAS: So a change has to be made with respect to this particular bill at a later date?

Sen. JACOBSON: As I stated previously, there is HB 189 which, if it passes with an amendment, there will be statutory power with respect to setting the time and mode of all constitutional questions.

Sen. KOROMILAS: Mr. President, I stand in opposition to this CACR and feel that when a person comes here, he does so for public service. I have maintained this before and this is the reason I come here. I feel we are adequately paid.

Amendment adopted.

Question on ordering to third reading.

Division required: 11 Ayes, 5 Nays.

Motion lost — two-thirds required (15).

HB 599

providing for volunteer probation counsellors. Ought to pass. Sen. Downing for Judiciary.

Sen. NIXON: Mr. President, HB 599 was sponsored by Rep. Beatrice Hall of Hillsborough District 13, and Rep. David Bradley of Grafton District 9. It provides for volunteer probation counsellors to have statutory authorization. In many of our courts now, there are people serving as volunteers. It is with the approval of the Director of Probation but without statutory sanction. All this bill would do would be to legalize this means of assisting in the work of the New Hampshire Probation Department in regard to the guidance and rehabilitation of child and minor violators, and I might say that these volunteer probation counsellors serve without compensation now and if this bill passes, they still will serve without compensation. The Committee feels that this would be very worthwhile in our judicial system and thus the unanimous recommendation, "ought to pass".

Adopted. Ordered to third reading.

Sen. Bradshaw in the Chair

HB 808

relative to unfair sales practices and the enforcement of the unfair sales act. Ought to pass. Sen. Nixon for Judiciary.

Sen. NIXON: Mr. President, there are already in effect in this state laws which prohibit unfair sales practices, price cutting and so forth gathered in Chapter 358 of the *Revised Statutes Annotated*. HB 808, sponsored by Rep. D'Amante and Rep. Hayes, would merely provide that these laws will be enforced by the Office of the Attorney General because, unfortunately, there has been a gap in the enforcement procedures which, to some extent, has rendered the already existing laws ineffectual. The Committee unanimously recommends that HB 808 ought to pass.

Adopted. Ordered to third reading.

RECALL FROM THE GOVERNOR

Sen. Tufts moved that the Senate recall HB 666, permitting eighteen year olds to entertain in lounges and dining rooms, from the Governor.

Sen. KOROMILAS: What is the purpose of the recall?

Sen. TUFTS: Our concern was that we felt that this was a worthwhile opportunity for people under 21, but we wanted to safeguard those young people as much as we could and we found that there is an alteration which I would propose if the Senate deems fit to recall.

Sen. SPANOS: Would you care to elaborate on what you are suggesting you might change?

Sen. TUFTS: The other day when I spoke on the bill, I said that the Committee felt after hearing the testimony, investigating and checking with the Attorney General, that we should allow solely the musicians and not more exotic types of entertainment. We checked the exotic types with the Attorney General and he told us we had obscenity rules which would cover exotic dancing and that sort of thing. However, we didn't know that the Liquor Commission felt that there was an enforcement problem and that there were private clubs which were not as open and not as big and this is where the problem arose. The Liquor Commission advised, and we have gone along with its recommendation, that we outline a little more definitely

so that these entertainers would be allowed principally and solely in the restaurants and hotels rather than in some of the more private clubs where less supervision is given.

Motion for recall adopted.

Sen. TUFTS: Mr. President, I move that HB 666 be placed on second reading at the present time.

Adopted.

Sen. TUFTS: Mr. President, I move the following amendment.

(Clerk read amendment)

Sen. TUFTS: Mr. President, the only thing to add to my previous remarks is that all the evidence presented at the public hearing was that these entertainers were in these larger establishments and the Liquor Commission has brought to our attention that they would like to propose that that be allowed but they felt that they had some difficulty with enforcing some of these private clubs.

Sen. KOROMILAS: As I understood the amendment as read, the last clause says, "at such times as entertainment is authorized by the commission." Does that limit the 18 year olds to appear at certain places unless it is authorized by the Commission?

Sen. TUFTS: I understood that the restaurant is the one that gets the authorization from the Commission.

Sen. KOROMILAS: Does that mean that before they can allow an 18 year old to entertain, that establishment has to get the permission of the Commission?

Sen. TUFTS: Yes.

Sen. MORRISSETTE: I move that HB 666 be made a Special Order of Business for Wednesday, June 2 at 1:01. I object to this amendment. I feel it is discriminatory and is creating a monopoly for the big interests and hotels. I see nothing wrong with the bill and the 18 year olds playing in the clubs such as the Snowshoe Clubs, VFW, etc. I hope you will give an opportunity for the people who are affected and take this up next Tuesday.

Sen. KOROMILAS: Mr. President, I rise in support of the pending motion.

Adopted.

Sen. KOROMILAS: Mr. President, I move that HB 249, relative to the definition of permanently and totally disabled, be placed on second reading at the present time.

Adopted.

Sen. KOROMILAS: Mr. President, I move that HB 249 be committed to the Committee on Public Health, Welfare and State Institutions. A motion was made yesterday with respect to recalling it from the Governor. It was not in the possession of the Senate, but it is at this time. This bill empowers the Director of Public Welfare to *define* what constitutes a mental disability.

Adopted.

COMMITTEE OF CONFERENCE REPORT

HB 578, to amend the New Hampshire higher education and health facilities law.

Sen. TUFTS: I move that the Senate accept the Committee of Conference Report. This is a very involved matter regarding the sale of bonds to be repaid by revenue for the building of educational and health facilities in the State of New Hampshire. This was a long, involved hearing and since I have spoken on this before, I will not go into too much detail. This is the sale of revenue repaid bonds to build additions to hospitals and educational institutions. It is involved with the banking and the sale of bonds in our state. We heard a great deal of testimony at the public hearing about how the feasibility study was done before these bonds were offered for sale and that then the sales were made to lending institutions in New Hampshire. There were the usual problems that bond council can always find to raise so we want to fix these problems. In this bill, the conferees have adopted the lawyers advice regarding the wording to allow these bonds to be sold to banks in New Hampshire.

Sen. JACOBSON: In this Committee of Conference Report, is the question of by-passing the Banking Commission raised again?

Sen. TUFTS: It wasn't raised in so many words.

Sen. JACOBSON: Does this allow what the proposal is on SB 180, to allow the health and educational facilities to raise bonds based on their revenue capacity?

Sen. TUFTS: Yes, it does.

Sen. TUFTS: I withdraw my motion to accept the Committee of Conference Report.

COMMUNICATION

May 24, 1971

Honorable John Bradshaw
President of the Senate

Dear Mr. President:

In response to numerous inquiries received by my Department, I would appreciate your including this letter in the Senate Journal to clarify the Department's position on complimentary admittance to the state parks by members of the General Court.

Members of the General Court are encouraged to use our state park facilities, observe the operations, and talk with the managers in order to better understand the problems we face in operating our parks.

By copy of this letter to all park managers, I am instructing them to admit free of charge any member of the General Court who presents a current ID card. Each member may be accompanied by one guest.

The ID card cannot be presented by a spouse or relative. It will be good for admission to all state facilities but will not cover camping, parking at meters or the central parking areas at Hampton, or parking at Wallis Sands.

Very truly yours,

George Gilman
Commissioner

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until Tuesday, next, at 1 o'clock.

Adopted.

LATE SESSION

Third reading and final passage

Sen. KOROMILAS: Mr. President, I move that SB 144 be taken from the table and placed on third reading at the present time.

Adopted.

SB 144, relative to the limitations on the loaning authority of cooperative banks, building and loan associations and savings and loan associations.

HB 709, relative to the use of credit union funds.

HB 735, relative to unpaid rent for safe deposit boxes.

HB 730, relative to changing unsecured loan limitations of building and loan associations, cooperative banks or savings and loan associations.

SB 174, relative to education for all handicapped children.

SB 180, relative to the inclusion of certain pupils from partially closed nonpublic schools in the computation of state aid due school districts.

SB 123, relative to enabling local municipalities to appropriate funds for assistance to the aged.

SB 157, providing that towns shall pay for damage to livestock caused by any canine.

SB 171, relative to Sunday dancing in hotels and certain restaurants.

HB 477, relative to fees for registration as professional engineer.

HB 621, increasing the authorized debt limit of the Pelham School District and the Windham School District.

HB 519, relative to the fees charged in the registry of deeds of Carroll County.

HB 528, authorizing town treasurers to deposit moneys in insured savings accounts.

HB 541, relative to town appropriations for Independence Day.

HB 671, to provide for historic districts in towns without zoning.

HJR 31, providing for taking the sense of the legal voters of the state on the question of calling a constitutional convention.

SB 15, raising the population figure of cities that require sealer of weights and measures and providing an appropriation for the administration of the weights and measures act.

SJR 16, reimbursing the members of the committee studying the economic potentials and development potentials of Mount Sunapee State Park for mileage expense incurred.

SB 88, relative to the Robert Frost Homestead Foundation.

SB 185, increasing the exemptions from attachment and execution of certain property.

HB 599, providing for volunteer probation counsellors.

HB 808, relative to unfair sales practices and the enforcement of the unfair sales act.

Adopted.

Sen. Porter moved the Senate at 3:10 o'clock.

Adopted.

Tuesday

1Jun71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

ALMIGHTY GOD, be with all who are in places of authority. Enable them in humility to give a good account of their trust. Prosper especially, we beseech Thee, all who dare to do that which is right and follow that which is true in love

and responsible in action, without fear of what may happen to them. And stir within us the fires of loyalty and devotion that, being faithful unto death, we may gain of Thee the crown of life, through Jesus Christ our Lord. Amen.

Pledge of Allegiance was led by Sen. Leonard.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 267, establishing a remote terminal providing information on federal funds in the office of the coordinator of federal funds. (Smith of Dist. 3 — To Finance.)

SB 268, transferring the division of promotion to the Office of the Governor. (Morrissette of Dist. 16 — To Executive Departments, Municipal and County Governments.)

SB 269, creating an industrial development authority. (Morrissette of Dist. 16 — To Executive Departments, Municipal and County Governments.)

SB 270, transferring the division of graphic arts to the Office of the Governor. (Morrissette of Dist. 16 — To Executive Departments, Municipal and County Governments.)

SB 271, transferring the service of community recreation to the Office of the Governor. (Morrissette of Dist. 16 — To Executive Departments, Municipal and County Governments.)

SB 272, transferring the office of state geologist to the Office of the Governor. (Morrissette of Dist. 16 — To Executive Departments, Municipal and County Governments.)

SB 273, to reduce automobile insurance premiums for good drivers. (McCarthy of Dist. 17 — To Banks, Insurance and Claims.)

SB 274, to provide the subscribers of hospital and medical service plans and the public more voice in the administration of such plan. (McCarthy of Dist. 17 — To Banks, Insurance and Claims.)

SJR 23, requesting the legislative study committee to study and make recommendations relative to the Uniform Consumer Credit Code. (Koromilas of Dist. 21 — To Judiciary.)

HOUSE MESSAGES INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 695, to permit investment in voting trust certificates of banks and bank holding companies in the same manner as in the capital stock of banks and bank holding companies. (Banks, Insurance and Claims)

HB 755, relative to salaries of district court judges. (Judiciary)

HB 874, authorizing the registrar of probate to give "notice" to beneficiaries. (Judiciary)

HB 885, relative to the sale of liquid fuels, lubricating oils and greases. (Public Works and Transportation)

HB 937, to abolish the legislative study committee and to provide for the continuing operation of standing committees of the House. (Ways and Means and Administrative Affairs)

HB 924, including certain disabled persons in the class of persons permitted to hunt on islands. (Recreation and Development)

HOUSE CONCURRENCE

SB 104, providing standards for the marketing of maple syrup and authorizing the Commissioner of Agriculture to enforce these standards.

HOUSE CONCURRENCE ON SENATE AMENDMENT

HB 751, clarifying the law relative to the board of trustees of New Hampshire colleges and providing for a student member thereof.

ENROLLED BILLS REPORT

HB 90, relative to the purchase of waters or lands by the Director of Fish and Game, making an appropriation therefor, and relative to Merrimack rearing station.

HB 98, relative to prohibition of certain vehicles within highway rights-of-way.

Sen. Ferdinando
For the Committee

ENROLLED BILLS AMENDMENT

HB 207, relative to the control of radiation. Ought to pass with amendment. Sen. Ferdinando for the Committee.

Amend RSA 125:59, III as inserted by section 5 of said bill by striking out subparagraph (12).

Amend said bill by striking out section 8 there of and by renumbering section 9 to read section 8.

Amendment adopted.

ANNOUNCEMENTS

Sen. PORTER: Mr. President, I move that the order whereby CACR 28, RELATING TO: Conservation of Natural Resources and Scenic Beauty. PROVIDING THAT: The Policy of the State shall be the Acquisition and Preservation of Lands as State Nature and Historical Preserve, was referred to the Committee on Resources and Environmental Control be vacated and sent to the Committee on Judiciary.

The Judiciary Committee has similar CACR's assigned to it at the present time and it is felt more expeditious action could be had if the Committee was able to combine all of these CACR's.

Adopted.

COMMITTEE REPORTS

SB 178

authorizing the Liquor Commission to extend certain provisions relative to liquor licenses. Ought to pass. Sen. Lamontagne for Ways and Means and Administrative Affairs.

Sen. LAMONTAGNE: Mr. President and members of the Senate, SB 178 allows the licenses to be extended.

Adopted. Ordered to third reading.

HB 387

extending the time within which pari-mutuel pools may be sold. Ought to pass. Sen. Lamontagne for Ways and Means and Administrative Affairs.

Sen. TUFTS: Mr. President, HB 387 is the occasion of the facilities of the Rockingham Park coming to the Legislature for the renewal, not of their licensing, but of their time in which

to sell the pari-mutuel pool or to allow the betting. This would extend a right to the Park to allow betting until 1991.

Adopted. Ordered to third reading.

Sen. Spanos moved that the Senate adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock in hopes for the speedy recovery of Sen. Poulsen.

Adopted.

LATE SESSION

Third reading and final passage

SB 178, authorizing the Liquor Commission to extend provisions relative to liquor licenses.

HB 387, extending the time which pari-mutuel pools may be sold.

Adopted.

Sen. Provost moved the Senate adjourn at 1:22 o'clock.

Adopted.

Wednesday

2Jun71

The Senate met at 1 o'clock.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

IN NOMINE PATRIS, ET FILII, ET SPIRITUS SANGTE. AMEN. O LORD GOD ALMIGHTY, Who hast caused us to reach the beginning of this day, save us today by Thy power, that we may turn not aside to any sin, but that our words, thoughts and deeds may ever be ruled by Thy justice.

O LORD GOD, King of heaven and earth, vouchsafe this day to direct and sanctify, to rule and govern our hearts and bodies, our thoughts, words and deeds, according to Thy law and in the works of Thy commandments; that here and forever,

with Thy help, we may be protected and saved, O Thou Saviour of the World, Who liveth and reigneth for ever and ever. Amen.

(. . . from "Small Missal")

Pledge of Allegiance was led by Sen. Townsend.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 275, to raise the minimum wage to two dollars and fifty cents per hour (Morrissette of Dist. 16 — To Ways and Means and Administrative Affairs.)

SB 276, reducing the size requirement for municipalities which may adopt the statutes relative to public parking facilities and relative to fees to finance the same. (Leonard of Dist. 13 — To Executive Departments, Municipal and County Governments.)

SB 277, relative to disqualification of certain officials in the City of Manchester for employment by the city. (McCarthy of Dist. 17 — To Executive Departments, Municipal and County Governments.)

SB 278, providing that, with the approval of one parent, persons who have attained the age of eighteen years will be fully competent to contract relative to motor vehicles. (Bradshaw of Dist. 10 — To Public Works and Transportation.)

HOUSE MESSAGES

First, second reading and referral

HB 127, providing for a study on the feasibility of construction of a bridge over the Merrimack River in the Town of Merrimack. (Public Works and Transportation)

HB 372, relative to the policemen's retirement system. (Ways and Means and Administrative Affairs)

HB 450, permitting Sunday racing. (Ways and Means and Administrative Affairs)

HB 633, relative to commitment to and discharge from mental institutions. (Public Health, Welfare and State Institutions)

HB 718, to amend the conditions of an appropriation for Dillant-Hopkins Airport, Keene. (Finance)

HB 760, exempting managers of public motion picture houses from the obscenity statute under certain conditions. (Judiciary)

HB 765, providing for the distribution of the state appropriation for school hot lunches. (Finance)

HB 783, to amend the conditions of an appropriation for Lebanon Regional Airport, Lebanon. (Finance)

HB 807, providing that the city manager of the City of Claremont shall administer the budgetary affairs of the police department. (Executive Departments, Municipal and County Governments)

HB 817, broadening the scope of the common law doctrine of cy pres. (Judiciary)

HB 855, relative to fees paid by municipalities for engineering services relative to sewage disposal systems. (Resources and Environmental Control)

HB 907, to prohibit the display of flags, banners and other insignia on public buildings in certain cases. (Judiciary)

HB 908, limiting the allowable noise level of snow traveling vehicles. (Public Works and Transportation)

HB 934, relative to a program of risk-sharing to insure poor risks in the field of automobile, aviation, property, accident and health, and workmen's compensation insurance. (Banks, Insurance and Claims)

HB 940, abolishing the day care advisory committee. (Executive Departments, Municipal and County Governments)

HJR 25, providing for payment of bobcat bounties and making an appropriation therefor. (Finance)

CACR 8, Relating to: Jury trials in civil causes. Providing that: Jury trials be limited to cases where there is more than twenty-five hundred dollars in controversy. (Judiciary)

HOUSE CONCURRENCE

SB 96, relative to the interest on deposits in credit unions.

HOUSE NON-CONCURRENCE

SB 60, relative to town liability for domestic animals harmed by dogs.

ANNOUNCEMENT

Sen. FERDINANDO: Mr. President and members of the Senate, I have the honor of informing the Senate that Sen. Edith B. Gardner has been presented with this Citation from Notre Dame College in view of her outstanding accomplishments.

CITATION

His Majesty, the late King George VI, observed that "The highest of distinctions is service to others." It is in recognition of your outstanding service that we have asked you to honor us by being with us today.

We salute you, beloved and admired by all who have the privilege of knowing you personally, respected and held in highest esteem by all acquainted with your considerable accomplishments in our behalf.

Born in our neighboring Commonwealth, you adopted New Hampshire as your home, and the citizens of this proud State are grateful beneficiaries.

As though a quarter-century of vigorous, conscientious, selfless service in both houses of the State Legislature were merely incidental, you meanwhile have contributed unstintingly of your wise counsel, keen awareness and contagious enthusiasm to a wide range of worthy causes: public health, hospital aid, the Red Cross; numerous professional and service clubs, political and legislative groups; historical society and county home; traffic safety, alcohol and drug abuse; Boy Scouts, Girls State, and educational programs; The White House Conference on Children and Youth; these are but a few. You are living proof that Sophocles hit wide of the mark when he admonished: "A woman should be seen, not heard."

Obstacles, rather than stopping you, spurred you to meet even greater challenge. Personal sorrow, rather than defeating you, increased your efforts on behalf of others.

Your unfaltering faith in The Almighty has led you to serve Him through unselfish service to your fellow men.

“Well done, thous good and faithful servant.”

I am happy to confer upon you
the degree of

DOCTOR OF LAWS

Honoris causa

Notre Dame College
May 29, 1971
Edith B. Gardner
Sister Jeannette Vezeau, CSC

FURTHER HOUSE MESSAGE REQUEST FOR COMMITTEE OF CONFERENCE

On motion from Sen. Ferdinando, the Senate voted to accede to House request for Committee of Conference on:

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HB 730, relative to changing unsecured loan limitations of building and loan associations, cooperative banks or savings and loan associations.

The Speaker appointed as members of Said Committee on the part of the House, Reps. Burns, Rodgers and Mallat.

The President appointed as conferees on the part of the Senate, Sens. Ferdinando and Morrissette.

ENROLLED BILLS REPORT

HB 599, providing for volunteer probation counsellors.

HB 621, increasing the authorized debt limit of the Pelham School District and the Windham School District.

HB 709, relative to the use of credit union funds.

HB 735, relative to unpaid rent for safe deposit boxes.

HB 808, relative to unfair sales practices and the enforcement of the Unfair Sales Act.

HB 309, relative to unemployment compensation.

HB 528, authorizing town treasurers to deposit moneys in insured savings accounts.

HB 541, relative to town appropriations for Independence Day.

HB 671, to provide for historic districts in towns without zoning.

HB 751, clarifying the law relative to the board of trustees of New Hampshire colleges and providing for a student member thereof.

HJR 31, providing for taking the sense of the legal voters of the state on the question of calling a constitutional convention.

SB 104, providing standards for the marketing of maple syrup and authorizing the Commissioner of Agriculture to enforce these standards.

Sen. Ferdinando

For The Committee

NOTICE OF RECONSIDERATION

Sen. SNELL: Mr. President, I served notice of reconsideration on CACR 29 and do now call for reconsideration.

Last week I voted against the bill to provide for a referendum on salary and travel expenses of the members of the General Court. I was sorry to do this; but in the light of the vital programs being either drastically cut or even completely eliminated because of lack of funds, I felt there was no alternative. How can we justify voting increases for ourselves when unfortunate youngsters are being turned away from the Laconia State School; when thousands of people are about to be deprived of the opportunity to learn to improve their homes and lives through the services of Cooperative Extension; when other thousands of state employees must forego their raises? It just doesn't make sense that legislators who are refusing to help these deserving people should then appropriate money for their own personal benefit. Although I am still opposed to this bill and shall vote against it as long as our state is in its present financial chaos, I have requested an opportunity to reconsider purely for the purpose of giving members who were not present an opportunity to cast their vote on this bill.

I hope that we can bring in the revenue so badly needed; and, at the same time, will protect the low and moderate income wage earner and insure that those in the upper income brackets pay a fair share. Under the provisions of the \$10 residency bill, the person earning \$2000 a year pays just as much as the man who earns \$50,000. That, it seems to me, is grossly unjust.

I hope we can give people other benefits in the form of property tax relief. I hope we can produce revenue needed to enable the state to give funds to cities and towns to relieve the mushrooming real estate taxes. Constantly expanding costs for schools and governments are placing a staggering burden on property owners. Do you realize that in Manchester the increase this year will be close to \$8 per thousand—this, on top of the large amount they are already paying. It is a blow to our senior citizens especially. Many will not be able to withstand this financial slaughter.

I hope we can insure that those who can afford it will pay the largest part of the freight—and justly so.

There is still another side to the picture. There are presently many excellent bills pending before this body that could enhance our state a hundredfold; yet not one can be approved because of lack of funds. There are bills to improve our state institutions, to stamp out drug abuse, to eliminate pollution, and improve our total environment; but each of these must fall by the wayside because we don't have the money to pay for them.

I am a native of the North Country and have, I am sure, an innate sense of thrift. Of course, I don't want to pay extra taxes any more than the next person — UNLESS I am sure the expenditure will really benefit our state more than would the tightening of purse strings. This, then, I feel, is the real issue — HOW DOES NEW HAMPSHIRE BENEFIT MOST?

There's an old cliché about being "penny wise and pound foolish." Don't you agree that an expenditure of \$185,000 for a special sessions is, to say the least, foolish when we can, if we really wish, do the job now?

And it seems a shame that our entire financial situation has become so completely distorted by animosity that we can no longer see the true picture. Therefore, I ask you to wipe

away bitterness and distrust — take a good look at your conscience — examine your motives and then consider additional revenue in the light of what it can mean to our citizens.

Sen. DOWNING: What is the content of CACR 29?

Sen. SNELL: It has to do with increasing the salary of legislators, the cost estimated at over \$1 million for additional revenue, if passed with a referendum. Under the present financial situation, it wouldn't be in the best interest that we should increase our own travel expenses and salaries.

Sen. DOWNING: How does that relate to a lack of revenue?

Sen. SNELL: Additional revenue is a necessity if this piece of legislation even is passed with a referendum and if other areas are cut back.

Sen. JACOBSON: Mr. President, when the bill was before us the last time, there were eight senators missing. What this is a referendum question. It does not deal with the budget at the present time. What it does is to provide the prospect for the people to vote on whether or not legislators should receive an amount of money above and beyond the present \$200 per biennium. What CACR 29 asks is for \$25 a day for legislators plus state mileage and not the present legislative mileage. This has nothing to do with the present budget crisis.

Sen. KOROMILAS: In view of the feelings of the people back home with respect to fiscal matters and costs of governments, do you feel that the people would vote for such a proposal?

Sen. JACOBSON: I have no notion whether, in fact, two-thirds of the people will vote for it or not. I do recall the *Manchester Union Leader* saying in the discussion that was held over the compensation commission on the ballot the last time that they believe that a reasonable figure of \$20 or \$25 a day would be acceptable to the people so I leave it to the *Manchester Union Leader* to make that judgment.

Sen. KOROMILAS: Isn't it true that if this did become the law of the state, that it would cost the state \$10,000 a day for the House at \$25 per person plus \$525 for the Senate, or a total of \$10,525?

Sen. JACOBSON: I have not checked your figures but I assume that they are correct. However, if you look into the question of the total budget in terms of the legislative responsibility, that total cost in terms of government would be less than $\frac{1}{2}$ of 1 percent.

Sen. KOROMILAS: What is the cost of mileage going to be in addition to the \$25 per day for the entire Legislature?

Sen. JACOBSON: I do not know that figure precisely, but it would be less that the figure is now by a considerable degree and I believe that with the mileage included, it would be about \$1 million.

Sen. MORRISSETTE: The reason why I favor this bill is because I feel, in talking with many people, that I have yet to see one that opposes some type of salary for legislators. I would be the last one to favor it on the basis of needing additional salary because I am retired. This is a referendum whereby the people will make the decision. The people will also have the opportunity to decide whether we will have 200 legislators in the House or 400. The figures of \$1 million may be incorrect. The question of revenue has been brought up and I will repeat what I have stated continuously that there are all sorts of avenues for revenue. There should not be an obstacle for some decent type of compensation for legislators and I feel the quality of legislators will improve and the dedication.

Sen. KOROMILAS: Mr. President, I stand in opposition to the motion to reconsider this CACR. I think that representative government has to be followed. I just cannot believe that a body such as this, the Upper House, a truly deliberative body, would, (and I am fully aware that this is a constitutional amendment) under the present financial situation, put on a referendum question of increasing their salaries when the state has \$145 million to take care of other items of government. It would be almost incomprehensible to the ordinary voter when he would read that this body did go in favor of a referendum to increase our salaries at the same time when we are in a very difficult financial situation.

Sen. LAMONTAGNE: Mr. President and members of the Senate, I rise in support of the motion now pending to reconsider. The reason why I ask for support of this motion is due to

the fact that last Thursday I was excused to bring Sen. Poulsen home and therefor I was not able to be present to vote on CACR 29. I would like to have the opportunity to vote on this matter today. I support this because it is not actually doing anything for ourselves — it is asking for the voters of New Hampshire to decide on the question. As was previously stated, it has nothing to do with any of the deficits which have been mentioned.

Sen. ENGLISH: Mr. President, I tried to find out whether the expression “all that glitters isn’t gold” is an aphorism or not. The point I want to make in that connection is that this sounds better than it really is. I had a chance to talk with a member of the Assembly in Pennsylvania several years ago where they received \$18,000 in allowances and various additions to the salary. He said that he figured you had to be elected at least three time before you are going to take one single penny home. If you receive \$200 in New Hampshire and can take some of that home, you are that much ahead. So it is with the legislators in other states. New York and California receive astronomical salaries. The more the salary goes up, the more time you take on television, radio, the more circulars you send out and the deeper you get in. I challenge anyone here to find any state where they are paid, no matter what salary, that they are any better off than we are being paid \$200. This is point number one and comes back to “all that glitters isn’t gold.” There may not be any gold in this.

Also involved in this is a New Hampshire idea that those of us who live in the state and love the state serve in various capacities for little or nothing. Selectmen, councilors, and firemen serve for little or nothing. If we in this Legislature are going to take up the idea of being paid enough to justify, based on our background and intelligence, then we have to take part in the whole structure of the framework of the State of New Hampshire.

Question on reconsideration.

Adopted.

CACR 29, RELATING TO: Compensation and Reimbursement for Expenses of Members of the General Court. PROVIDING THAT: Members shall receive a per diem of twenty-five dollars travel allowance of one round trip per legislative day and the reimbursement for actual expenses.

Sen. SPANOS: Mr. President, I voted in favor of the motion to reconsider because I, too, was aware that there were several senators that did not vote and I believe they should have the opportunity to do so. However, I rise in opposition to the measure itself for one reason only. That is that I made a pledge a long time ago that I would never vote for an increase in legislative salaries or wages until the Chamber across the hall is reduced at least in half.

Sen. JACOBSON: I move the question.

Question on ordering CACR 29 to third reading.

Division vote: 9 Yeas, 11 Nays, motion lost.

Sen. S. Smith in the Chair

COMMITTEE REPORTS

SJR 20

in favor of Mrs. Ann Morrell. Ought to pass. Sen. Ferdinando for Banks, Insurance and Claims.

Sen. LAMONTAGNE: Mr. President and members of the Senate, SJR 20 is a very simple bill with only \$70 involved. The incident involved in this resolution concerned one of our state troopers who had one of the state police dogs. Mrs. Morrell's poodle got close to the state police car and the police dog did some damage to the poodle.

Adopted. Ordered to third reading.

SB 30

relative to the time after which the requirements of filing proof of financial responsibility may be waived. Ought to pass. Sen. Ferdinando for Banks, Insurance and Claims.

Sen. FERDINANDO: Mr. President, SB 30 changes the filing period from seven years to three years for anyone who has a financial responsibility certificate. The Committee recommends that it ought to pass.

Adopted. Ordered to third reading.

HB 268

relative to unauthorized insurance. Ought to pass. Sen. Ferdinando for Banks, Insurance and Claims.

Sen. FERDINANDO: Mr. President, HB 268 does two things: it changes the unauthorized insurance premium tax to 4 percent from 3 percent and the Marine insurance premiums receipts tax to 2 percent. This was the Insurance Commissioner's request.

Sen. PROVOST: How will this affect the public?

Sen. FERDINANDO: Not at all. This concerns policies which take place outside of the state such as vessels.

Adopted. Ordered to third reading.

HB 181

to provide for the regulation of title insurance. Ought to pass with amendment. Sen. Ferdinando for Banks, Insurance and Claims.

AMENDMENT

Proposed by Committee on Banks, Insurance and Claims

Amend the bill by striking out paragraph RSA 416-A:15, III as inserted by section 1 of the bill

Re-number paragraph RSA 416-A:15, IV as inserted by paragraph 1 of the bill as RSA 416-A:15, III.

Sen. FERDINANDO: Mr. President, HB 181 sets up the requirements for title insurance in the Title Insurance Code. Up to this point, there hasn't been any.

Amendment adopted. Ordered to third reading.

HB 648

enacting an insurance holding company act. Ought to pass. Sen. Ferdinando for Banks, Insurance and Claims.

Sen. FERDINANDO: Mr. President, HB 648 is similar to HB 181. It sets up the standards for insurance company purposes relating to holding companies. This was introduced by the Insurance Department and the Committee felt that it ought to pass.

Adopted. Ordered to third reading.

HB 304

relative to requirements for obtaining a license for granting small loans. Ought to pass. Sen. Morrissette for Banks, Insurance and Claims.

Sen. MORRISSETTE: HB 304 is to correct a ridiculous situation. In section 2, it says that anyone making a loan of \$5,000 would have to get a license. Once you get a license, you can make use of it. This corrects a situation which has long been in effect. It also increases from \$1500 to \$5,000 the amount on small loans which should have been corrected in 1967. The Committee felt that this should pass.

Adopted. Ordered to third reading.

HB 517

relative to the name of cooperative banks, building and loan associations or savings and loan associations. Ought to pass. Sen. Morrissette for Banks, Insurance and Claims.

Sen. MORRISSETTE: Mr. President, HB 517 is a simple housekeeping bill that just adds the words, "savings and loan associations" which is used in other sections of our law and we felt that it should be in this section. If an institution involved wants to use their own name, they should have the authority and we recommend that it ought to pass.

Adopted. Ordered to third reading.

SB 2

relative to admissibility of facts or opinions contained in scientific publications in court proceedings and notice requirements to opposing party. Inexpedient to legislate. Sen. Nixon for Judiciary.

Sen. NIXON: Mr. President, SB 2 was sponsored by Sen. Leonard and myself. Its purpose was to permit the use of opinions in treatises and textbooks as evidence in court trials, if approved by the judge, if the personal testimony of a medical or legal expert could not be obtained. In some cases, our citizens who suffer personal injuries due to a doctor's negligence or money damages due to a lawyer's negligence are unable to obtain redress for such wrongs because no lawyer or doctor can be gotten to testify, in a sense, against another member of the same profession. Thus the person injured is denied a chance to prove his case. Massachusetts has an identical law already on the books.

The Committee has considered this bill at length, and although I think it is generally felt that there exists a need to provide a more effective means of redress for legal or medical malpractice, it was also felt this bill would perhaps not do the

whole job. In addition, the right of cross-examination would not exist as to the information contained in such written matters as evidence. It was, in sum, felt that the degree of good to be achieved by passage of this bill did not warrant elimination of the protections afforded by the cross-examination procedure, particularly in jury matters. Thus, the Committee recommendation of "Inexpedient to Legislate."

Sen. KOROMILAS: Mr. President, I agree with the Committee Report and I would like the record to show that I oppose the bill.

Resolution adopted.

SB 130

relative to expert witness fees in superior court cases. Ought to pass. Sen. Leonard for Judiciary.

Sen. LEONARD: Mr. President, SB 130 could be classified as a "housekeeping bill". Under the present law, if there is a case in the Superior Court, costs are allowed by the court. The cost for an expert witness would be allowed if the person requests that this be done. Under this bill, the procedure is changed whereby the costs of the expert witness is automatically entered by the Clerk of Courts and that if the opposing party wants to object to the amount of the fee, he can file his objection and a hearing is held.

Adopted. Ordered to third reading.

HB 303

to extend the jurisdiction of police in the apprehension of motor vehicle regulation violators to include semi-public parking lot. Ought to pass. Sen. Downing for Judiciary.

Sen. DOWNING: Mr. President, HB 303 is to extend the jurisdiction of police in the apprehension of motor vehicle regulation violators to include semi-public parking lots. With the advent of the shopping center in the State of New Hampshire, the parking lot now seems to have become a speedway and sort of a haven for drunken drivers and dangerous drivers, and yet there is no authority to arrest these people on motor vehicle violations. This bill will establish that authority.

Adopted. Ordered to third reading.

SB 175

relating to arrest without a warrant by law enforcement officers. Majority: Ought to pass. Sen. Nixon for Judiciary.

Minority: Inexpedient to legislate. Sen. Koromilas for Judiciary.

Sen. NIXON: Mr. President, SB 175 was sponsored by Sen. Jacobson at the behest of the New Hampshire Judicial Council. In essence, this bill, if passed, would permit a police officer to arrest a suspect without going back to the police station, having a warrant sworn out and then returning to the scene if the suspect committed a felony or he had reasonable cause to suspect that the person committed a felony, which is the law now. Also, if the suspect committed a misdemeanor in the officer's presence, which is the law now. But, in addition, if the suspect had committed a misdemeanor and the officer, notwithstanding that the misdemeanor was not committed in his presence, had reasonable cause to believe that the person involved would not be apprehended unless immediately arrested or might cause injury to himself or others or damage to property unless immediately arrested, this bill would permit arrest without a warrant. The bill goes on to specify what probable or reasonable cause is so as to provide some guidelines for the discretion of the law enforcement officer in question.

I might say that the bill is modeled after the Model Penal Code. This is the same bill in regard to arrest without a warrant which has been submitted to the Legislature by and at the behest of the New Hampshire Judicial Council at the 1967 and 1969 sessions, both of which times it passed the House and was defeated in Senate. The bill is thought by the Judicial Council to give law enforcement officers a reasonable and additional tool to combat the increasing complexity and transient nature of the commission of criminal offenses. It is not a situation any longer where misdemeanors in particular are committed by Joe Doe who lives down the street and everybody knows him and the situation can be alleviated by the local patrolman bringing him down to the station and letting him cool off for four hours as the four hour detention law permits. A lot of the criminal conduct, particularly in the Manchester and larger city areas, is committed by out-of-state transients, unknowns, and at the present time, the police feel that they are handicapped in that they are often called to the scene of an alleged offense, and without the offense having been committed in their presence, they have no basis for arrest, notwithstanding the fact that the officer in question might, due to his prior experience and training,

legitimately feel if he doesn't arrest someone, some harm will result immediately or there may have been some harm which was caused before he got there in the nature of an assault and no one dares to swear out a complaint to permit anyone to be arrested on the spot.

The bill was supported in testimony at the hearing by Attorney General Warren Rudman, Deputy Chief Thomas King of the Manchester Police Department and by Capt. Paul O'Leary of the State Police. No one appeared in opposition to the bill.

Part of this year's New Hampshire Judicial Council's report on the bill is as follows: "The Council has always been cognizant that the law regulating arrest without a warrant should not be enlarged broadly so that the rights of persons arrested for the commission of crimes and offenses could be abused. However, it also recognizes that no undue burden should be placed on a law enforcement officer to protect society from crimes and offenses committed by offenders who should be brought to trial. The present law provides that a law enforcement officer can make an arrest without a warrant only for an offense committed in his presence. With the ever increasing use of automobiles, traffic cases now constitute approximately 80 percent of the total number of crimes and offenses processed in our district and municipal courts. It is the Council's opinion that the present law is in need of correction to cope with modern conditions. The present law of arrest without a warrant has remained unchanged in substance for three decades."

The members of the New Hampshire Judicial Council, which has for three successive legislative sessions including this one, endorsed this bill now before you include Frank R. Kenison, Chief Justice of the New Hampshire Supreme Court; Hon. John H. Leahy, retired Chief Justice of the New Hampshire Superior Court; Hon. William Keller, Chief Justice of the Superior Court; Hon. Kenneth Shaw, Judge of Probate, Sullivan County; Robert E. Early, member of the Bar from Nashua; Frederick Upton, President of the New Hampshire Bar Association; Hon. Robert W. Upton, Vice-Chairman of the Council; Stanley M. Brown, the immediate past President of the New Hampshire Bar Association; Warren Rudman, Attorney General of New Hampshire; John B. Pendleton, Attorney in Concord; Edward Gallagher, publisher of the *Laconia Citizen*; Wil-

liam W. Treat, Judge of Probate for Rockingham County; and John H. Ramsey, member of the Bar from Meredith.

I believe that with that body of authority in support of the bill and with the demonstrated need for more legal protection for society in general as opposed to those who commit offenses against society, there is reasonable ground for the passage of SB 175 and I hope this body will adopt the Majority Committee Report, "ought to pass."

Sen. KOROMILAS: Has this august body ever gone against a Judicial Council report?

Sen. NIXON: Yes, and I certainly hope it will in the future when this august body feels its judgment is better than that of the Judicial Council. In this case, I think that if we go against the Council, we would be making a mistake.

Sen. KOROMILAS: I want to call your attention to page 2, II of the bill, second sentence: "An arrest shall not be deemed to have been made on insufficient cause hereunder solely on the ground that the officer is unable to determine the particular crime which may have been committed." Do you think that is a good proposal?

Sen. NIXON: Yes, for this reason. There are situations where an officer comes upon a person who has obviously been assaulted. He cannot tell merely from looking at the bruised, bloody and battered body of the person whether it is a simple assault or an assault with a dangerous weapon or an aggravated assault. It might be that he would arrest on the ground of aggravated assault and later find that it was simple assault. This particular sentence would cover that eventuality.

Sen. KOROMILAS: Are you aware that the bill, as it was introduced this term, is different from the one last term and the one prior to that?

Sen. NIXON: As I understand it, the bill has been modified but not in substance. I would agree that your familiarity with this bill and its predecessors is greater than mine.

Sen. SPANOS: Under II, "Reasonable cause exists under this section where there is a substantial objective basis for believing that the person to be arrested has committed a crime." Is there anything in the criminal law today that defines, or in

your own experience, could you tell us what you believe to be the term, "substantial objective basis?"

Sen. NIXON: I know of nothing in the law itself which defines it except that I know that in the experience of interpreting the word, "objective" as opposed to "subjective" it is commonly acknowledged in the law by the courts that "subjective" is something that relates to the thinking of the person involved himself. For instance, if the officer arrests because of a grudge or personal belief or assumption that cannot be borne out under impartial analysis. If there are criteria or circumstances involved that would lead an impartial observer to believe that there was a basis outside his own personal supposition, then you would have the objectivity which would be called for under the statute. It is to provide protection for the arrested person, to set down guidelines that an officer must comply with if the arrest without a warrant is to be justified.

Sen. MORRISSETTE: Under the existing law, can the police officer go along with the person until he gets the warrant?

Sen. NIXON: There is the so-called four-hour rule under the existing law whereby a person apprehended under suspicious circumstances can be brought to a police station for four hours. This was brought up at the time of the hearing and the police do not rely on the four hour detention provision because they have reason, due to its challenge by well-versed lawyers at the later trial of the suspect, to doubt the constitutionality of a four hour apprehension without some charge being filed and an arrest made. In addition, the police officer, untrained in the law in many situations, is oftentimes on the stand trying to prove to a judge that all he was doing was detaining a fellow for four hours as opposed to actually having arrested him, which would oblige him to inform the suspect of his constitutional rights. It is felt by the police authorities, Deputy King of Manchester and Capt. O'Leary of the State Police, that our present law does not really serve the purpose of protecting society in terms of permitting a fellow to be brought to the station and detained.

Sen. KOROMILAS: Mr. President, I move that the Minority Report, Inexpedient to Legislate be substituted for the Majority Report, Ought to Pass. As the distinguished senator from the Ninth District has indicated, this bill is on its third time

around. There is no question who has, in the past, been opposing this particular bill. Although the name is not specifically mentioned, I may as well disclose that it is myself.

I feel that, in looking at the bill, there have been some improvements from the last two times. I feel that if we don't pass it today, it might be improved much more. Getting down to the actual problem, I think we all realize that what we are talking about is a misdemeanor and not a felony; it is a minor crime. The Judicial Council Report says that the real problem is in *traffic* violations, yet the bill itself goes beyond traffic violations. To give an example, if you are on a highway and involved in an accident and there was no police officer there but arrived later, then it would be a question as to whom the policeman would believe.

Today, it seems to be, with the hue and cry of law and order, that it is another way of whittling the right of the citizen. Everyone should realize that with respect to felonies, policemen *do* have the right to arrest if there is reasonable cause to believe that a crime has been committed. We are talking about misdemeanors. The bill goes beyond traffic violations. It allows for arrest without warrant in *all* misdemeanor cases. It is significant, though no one agrees with demonstrations in Washington, it would seem to me that it is this type of thing that would allow for mass arrest. They will not be apprehended unless *immediately* arrested. This is one item under which an arrest can be made without a warrant. In other words, if there was a situation here in New Hampshire, this could be done by arresting everyone because you cannot arrest them later.

I think the distinguished senator from the Ninth District also indicated that there is such a thing as four hour detention and a person may be held for that amount of time. The most crucial thing in this bill seems to be the credibility of a person who tells the police what has occurred. He is not under oath; he can make any statement he wants and the police, on that basis, can decide who is credible. He can listen to the two parties involved and make a substantial subjective decision. In a warrant, if you go out and issue a warrant, you have to put under oath and say that Jack Jones did commit a misdemeanor. In this particular situation, it is just a matter of who can out-talk the other with respect to the commission of a misdemeanor. For those reasons, I ask the Senate to kill the bill.

Sen. NIXON: Don't you think that in the great majority of the cases, a New Hampshire police officer with any experience at all is able to determine whether or not a story or a fabrication of the type you have been discussing is being told and he can, in all probability, arrest the right person?

Sen. KOROMILAS: In the majority of cases, yes, but I think you and I know they are not always exactly neutral.

Sen. NIXON: Isn't it true that if this bill passes, our law enforcement personnel would have an additional means of protecting, in advance, under the reasonable conditions, the members of society who wish to comply with the law from being harmed?

Sen. KOROMILAS: Not in all cases.

Sen. LEONARD: Mr. President, I rise in support of the motion to substitute the Minority Report. I think that the arguments presented by Sen. Nixon apply to felonies more than they do to misdemeanors. A felony is a serious crime punishable by imprisonment for more than a year. Most misdemeanors are minor crimes. The Judicial Council Report indicates that the reason they are for this is because of motor vehicle accidents. May I point out that when there is a motor vehicle accident, the police officer arrives, gets the number plates, license, and I don't think it is asking too much for an officer to go down and get a warrant. To give an example of an incident, just a month ago in my area, there was a young man who just got out of the hospital. He went shopping and as he walked out with a bag of groceries, he saw a car back into his car and he yelled at them. Two men got out, had been drinking and they had just been released from the State Prison the day before. They roughed up this gentleman and when the police cruiser arrived, they talked the cops into arresting this man as the guilty party. They placed him under arrest and then realized that the statute prevented this so they charged him with being drunk and he was lucky enough to have a doctor come to the police station to take a sample of blood indicating that he had nothing to drink.

I think that if it's abused once, it is too many times. I can tell you from my own experience that there are many police officers in our state who will abuse this statute if we pass it. It is not necessary, especially in motor vehicle cases, and that seems to be the main reason why the Judicial Council is for this.

We killed it in 1967, 1969 and I think we ought to kill it now. If we are going to change all these laws, I think we are taking the rights away from the people and there are people who deserve to have their rights protected.

(Sen. Bradshaw in the Chair)

Question on substituting Minority Report, Inexpedient to legislate for Majority Report, "Ought to pass."

Division vote: 9 Yeas, 9 Nays, motion lost.

Question on ordering SB 175 to third reading.

Roll Call requested by Sen. Nixon. Seconded by Sen. Lamontagne.

Yeas: Sens. Lamontagne, S. Smith, Snell, Jacobson, Nixon, English, Porter, Downing, Foley.

Nays: Sens. Townsend, Gardner, Spanos, Leonard, Ferdinando, R. Smith, Morrissette, McCarthy, Provost, Brown, Koromilas, Tufts.

Result: 9 Yeas, 12 Nays.

Motion lost.

SJR 14

relative to retirement for George R. Merrifield. Ought to pass. Sen. Spanos for Finance.

Sen. SPANOS: Mr. President, SJR 14 which attempts to add additional creditable service to George R. Merrifield of Sunapee who served in the hall across the way with distinction for many years for the Town of Sunapee. He has also been an employee with the Town of Sunapee since August 2, 1944. At the time that he joined the Town of Sunapee's work force as a water commissioner, he did not realize or thought that he could not become a member of the retirement system and also have social security at the same time. In 1954, he learned that he could and he immediately went on the retirement system. The Town of Sunapee chose to go on the retirement system as well.

What this bill does is to allow him to go on the retirement system with added credits provided that he pays into the system about \$600 of his own money and the Town of Sunapee will put in \$3500 of its own money. The bill is permissive only, and

I have checked this out with Harry Descoteau who serves on the Board of Trustees of the New Hampshire Retirement System and it is both our understanding (and I want the record to show this) that it in no way imposes upon the Town of Sunapee a mandatory duty to send in the \$3500. If they should choose not to comply and pay in the monies, then the additional retirement credits will not be given to Mr. Merrifield. The Secretary of the Board of Trustees of the New Hampshire Retirement System, Mr. Descoteau, appeared at the hearing and was neither in favor nor against the measure. He merely wanted to let us know what it means in relationship to any cost to the state and to the individual and town. There is no cost to the state. This gives Mr. Merrifield additional retirement credits provided he reimburse the town and the system that amount of money which he would have paid (plus interest) during this ten year period.

The Finance Committee was unanimous in their vote.

Adopted. Ordered to third reading.

SB 80

providing veterinary medical education at Ohio State University for New Hampshire residents and making an appropriation therefor. Ought to pass. Sen. Foley for Finance.

Sen. FOLEY: SB 80, sponsored by Senator Snell, provides veterinary medical education at Ohio State University for New Hampshire residents and making an appropriation thereof. This bill is similar to the bill allowing New Hampshire students to study medicine at the University of Vermont. SB 80 would open 5 slots for New Hampshire students to attend Ohio State Veterinary School. The State would pay \$1800 for each student . . . the student would pay the sum a resident student of Ohio State plus board, room, books, etc.

There are only 18 veterinary schools in the entire country. New Hampshire needs veterinarians. In addition, our students at pre vet school at UNH are having a hard time getting accepted in Vet schools . . . not because of poor marks but because of lack of room for them. Some students have 3.2 averages and some higher and are still not accepted.

Currently we have nine New Hampshire students from Kingston, Littleton, Lee, Laconia, Hamstead averaging 3.2 and 3.6 averages and still having difficulties. This bill would allow

us to sign an agreement with Ohio State to have five openings available each year should we have qualified students. It looks like a golden opportunity and I urge the Senate to pass this bill.

Sen. SNELL: If this body should pass this piece of legislation, what possibility do you see it passing House Appropriations?

Sen. FOLEY: I couldn't even pretend to know what they would decide.

Sen. MORRISSETTE: How much is this going to cost?

Sen. FOLEY: The first year, it will cost \$3,600. We are starting slowly with two students for next year. The following year, it will be \$12,000 and after that, it will appear in the UNH budget. This is the only time we have to actually make an appropriation.

Sen. MORRISSETTE: Are those students who cannot afford to pay their own schooling?

Sen. FOLEY: Some can and some cannot, but this is the same thing we do at the University of Vermont Medical School — we don't have opportunities here in the state and we provide for them elsewhere.

Sen. MORRISSETTE: We desperately need doctors, but I cannot see the state paying for a veterinarian's education if he can afford it. It should be on the basis that he cannot afford it.

Sen. FOLEY: In all probability, there would be applications made and if they can afford it, these students do pay.

Sen. DOWNING: Isn't this important to make sure that there is space in schools for New Hampshire students — it's more important than actually contributing for their education?

Sen. FOLEY: Yes, if we sign this agreement, there will be slots available but that is not to say that we will fill them every year, but they would be available. Right now, there is no place for these students to go.

Sen. KOROMILAS: Is there any reciprocal plan whereby a person from out-of-state who is coming to the UNH and the other state pays for that tuition?

Sen. FOLEY: I don't think we have anything here, but I am sure the UNH would be available for this type of reciprocal agreement if we had something to offer that they did not have. Right now, we have no medical school and we have no veterinarian school and these are the two things that we hope to participate in.

Sen. KOROMILAS: Are there any other states besides Ohio State that do send their young men to the University of New Hampshire and they pay for the tuition from their state funds?

Sen. FOLEY: I don't know. I know that other states have this reciprocal agreement with Ohio State.

Sen. S. SMITH: Isn't it true that the Forestry School accepts students on a similar basis from Maine and Vermont and also the Hotel School?

Sen. FOLEY: Thank you. Now I know.

Adopted. Ordered to third reading.

SB 86

creating the position of executive director of the Commission on the Arts. Ought to pass with amendment. Sen. R. Smith for Finance.

AMENDMENT

Amend the bill by striking out section 3 and inserting in place thereof the following new section:

3 Compensation. Amend RSA 94:1 (supp) as amended, by inserting in proper alphabetical order the following new line:

Executive director, commission on the arts \$13,322 \$15,860

Sen. R. SMITH: Mr. President, SB 85 gives permanency to something which is already a fact. We have a Commission on the Arts which has, in fact, an executive director. Although the act providing for the Commission does not specifically say that they can have an executive director, the position has been created by the Commission. It is felt that an executive director is necessary because there is a handling of federal funds. We have given legitimacy to the position and provided for a salary at the current level.

Sen. PORTER: Would you deem this a necessary service?

Sen. R. SMITH: It is my personal feeling that this is a service that a portion of the population of this state deserves and is entitled to. I think we have a bargain here in the amount of federal funds that are distributed to the state through this program.

Sen. PORTER: Somewhere though, the priorities will have to be established as to which ones can and cannot be funded. Can we assume that the Finance Committee will only recommend those which have only top priority?

Sen. R. SMITH: I don't think you can assume anything, senator, but you can be sure that it will have our careful consideration.

Sen. MORRISSETTE: Arts doesn't appear to be a priority item to me. Have you given any consideration to the elimination of the position rather than making it a permanent fixture?

Sen. R. SMITH: We have not given that consideration because that was not in the bill. If you wish to present a bill eliminating the Commission, then it is your right to do so.

Sen. MORRISSETTE: You could eliminate the position if you wanted to?

Sen. R. SMITH: It has been the feeling of the Executive Departments Committee who originally considered this bill that this be passed and it also is the position of the Finance Committee.

Sen. PORTER: Does this money come from the General Fund or from the Federal Fund?

Sen. R. SMITH: This is General Fund money.
Amendment adopted. Ordered to third reading.

SB 197

establishing the salary of the pesticides surveillance scientist. Ought to pass. Sen. R. Smith for Finance.

Sen. R. SMITH: SB 197 is strictly a "housekeeping bill." The position of pesticides surveillance scientist was created and funded through the budget in the 1969 session of the Legislature, however, the position was not picked up in the emuneration of positions in the unclassified portion of the RSA. This bill simply inserts this position in its proper place in the RSA.

Adopted. Ordered to third reading.

SB 94

relating to the improvement of clinical laboratories. Ought to pass. Sen. Snell for Public Health, Welfare and State Institutions.

Sen. SNELL: Mr. President and members of the Senate, SB 94 was offered by myself at the request of the Public Health Department. It has an appropriation for the sum total of \$32,000 and it will be referred to Finance. We had some debate over this in our Executive Committee hearing and we would like to recommend that it be sent to Finance. It sets up improvements in our clinical laboratories and the policies set up by laboratory directors as far as qualifications, programs for improvement and performance and at this time, under the present financial situation in this state, I feel that in the best interest that it be referred to Finance and they will act on it in the best interest of the state.

Referred to Finance.

SB 176

relating to a department of forensic medicine. Inexpedient to legislate. Sen. Koromilas for Public Health, Welfare and State Institutions.

Sen. KOROMILAS: Mr. President, SB 176 was introduced by Sen. Porter. Forensic medicine deals with a person who is schooled in pathology and who can also testify before a court. In other words, a person who has that added expertise, not only to be a pathologist but also to have a good demeanor in court.

I worked on this particular bill during the interim session with the Medical Society and other people. What it does is to establish a director of forensic medicine. Theoretically, he would be in charge of all the medical referees and he would show them how to make autopsies and how to test. There is also a provision for a deputy of forensic type to understudy the director. It does go into a great deal of background on how autopsy should be done and also the director would be in charge and would have an office in Concord. He would run the entire show. There would also be a board of forensic medicine made up of various people.

The idea behind this bill was to try to get more doctors into the medical referee area because there is a great need for it. However, if one looks at the list of medical referees, one

finds every few pathologists because they are so busy at the hospitals, they have no time to act as medical referees. What this bascially attempts to do is to get other doctors interested in pathology and to act as medical referees. It was the Committee's opinion that while this was a good idea, it would take a long time to school people in the various medical fields to become pathologists and forensic medical experts. For that reason, the Committee decided to report this as inexpedient to legislate.

Sen. PORTER: Mr. President, I introduced this bill and I want to commend Sen. Koromilas and Sen. Snell for their endeavors in the Committee. The bill does carry a sizeable appropriation and I concur with the Committee Report.

Resolution adopted.

HB 12

amending the Lebanon City Charter to provide for three-year terms for city councilors, three to be elected annually. Inexpedient to legislate. Sen. Townsend for Special Committee on Lebanon.

Sen. TOWNSEND: Mr. President, HB 12 has to do with the City Charter of the City of Lebanon. The bill would change the method of council elections from biennial to yearly. It would change the terms of office from two years to three years. At the hearing held in Lebanon after extensive advertising on three radio stations and full newspaper coverage, only one person besides the sponsor spoke in favor of the bill. There were six people who signed in person in favor of the bill while 25 signed in opposition. There appeared to be a lack of substantial interest in favor of any change in the charter at this time.

A similar proposal was defeated by a referendum vote at the last city election. I hope the Senate will support the Committee Report, Inexpedient to Legislate.

Sen. ENGLISH: Was this passed overwhelmingly in the House?

Sen. TOWNSEND: This passed this session. Correct.

Sen. ENGLISH: Five of the six members of the Lebanon Delegation favored this proposal — is that correct?

Sen. TOWNSEND: I do not know what the story was so far as the score. The background of this was that the Lebanon

Delegation did not hold a public hearing in Lebanon. It did have one, I believe, scheduled in Concord but there was no great exodus of citizens from Lebanon to come to that because I earlier had been asked by the Delegation to hold a hearing in Lebanon when the bill came to the Senate. For these reasons, I contend that the Lebanon Delegation did not take an accurate sense of the feeling of the people in Lebanon.

Sen. ENGLISH: This was recommended unanimously by the Charter Commission?

Sen. TOWNSEND: Three years ago, there was a Charter Commission and there were some recommendations for changes in the Charter made at that time. This bill we are considering now is almost identical to the one that passed the Senate and House two years ago.

Sen. ENGLISH: The Chairman of the Delegation informed me that the City Council voted unanimously in favor.

Sen. TOWNSEND: I believe that is an error but I will stand corrected if I am not right. I did not mention this fact for the simple reason that for one reason or another, Mr. Foster did not mention that the school board in Lebanon voted unanimously, I believe, in opposition so I did not consider these two governing boards either pro or con because many of both boards came and signed pro and con, according to their particular feelings on the bills.

Sen. English: I would like to prefix this by saying I have no professional interest or knowledge of affairs in Lebanon. Carl Foster, the chairman of the Delegation, other members of the Delegation spoke to me about this and asked if certain of these things could be brought before the Senate for their consideration. Would this set up a referendum whereby the people in Lebanon would have the chance to decide — is that correct?

Sen. TOWNSEND: Yes, the provision is there.

Sen. MORRISSETTE: I was wondering, do you feel, senator, that the Council and Mayor is representative of the majority of the people?

Sen. TOWNSEND: Well, senator, that is difficult to say not having had a vote on this particular issue. I merely have

to base my position at this time on the response that I received when I held the hearing. Excuse me, I have to qualify that. Sen. Jacobson and Sen. Spanos were also on that Committee. When we held the hearing in Lebanon, I have to base my position on the response I received at that time.

Sen. MORRISSETTE: Would you say that the majority of the people at the hearing was pretty well representative or was it primarily a personal interest?

Sen. TOWNSEND: I think there were personal interests on both sides.

Sen. S. SMITH: You mentioned that two years ago, this bill passed the House and the Senate. Why is it here again?

Sen. TOWNSEND: I had nothing to do with it. It didn't pass in referendum. The people voted it down in the referendum.

Resolution adopted.

HB 11

to provide for the annual election of officials of Lebanon School District at the same time as the election of city or state officials. Inexpedient to legislate. Sen. Townsend for the Special Committee on Lebanon.

Sen. TOWNSEND: Mr. President, this is the companion bill referred to earlier in discussion. HB 11 would change the time and method of electing members of the school board in the City of Lebanon. It would call for elections to be held at the same time as city council elections. School board elections presently are held annually in March. If this bill were to take effect, the elections would be held in November at the same time as the city council elections. However, this change is based on the premise that the city charter would also be changed to provide for annual elections. At the hearing held in Lebanon, HB 11 received slightly more vocal support than did HB 12. Those who signed personally for the bill totaled 9 while those opposed totaled 22. Because the sentiment is manifestly in opposition to the bill, there is no justification for holding a referendum at this time and I hope the Senate will support the report of inexpedient to legislate.

Resolution adopted.

SPECIAL ORDER OF BUSINESS FOR 1:01

HB 666

permitting eighteen year olds to entertain in lounges and dining rooms. (Requested by Sen. Morrissette) Ought to pass with amendment.

Clerk read amendment.

Sen. LAMONTAGNE: Mr. President, I rise in opposition to the amendment. I personally feel that this separates the 18 year olds. Either we allow them to be entertainers or we kill the bill but I don't feel that we should favor one section of the business such as hotels and motels and separate them from clubs. I am very disturbed by this amendment. I had told my young constituents that everything would be all right and then I find this amendment on the floor which would limit their right to play in various establishments. I sincerely hope that this amendment is defeated.

Sen. MORRISSETTE: Mr. President, I rise in opposition to the amendment. The sponsor and I have received several phone calls regarding this bill. The amendment is discriminatory against the VFW, the American Legion, Snowshoe Clubs and other such organizations. I hope my colleagues will kill this amendment.

Sen. TUFTS: I speak on behalf of the amendment. It was a hard decision to allow 18 year olds to be exposed and I think the evidence of the two senators indicates that there is a problem. The more safeguards we can establish, the better off we will be so I hope that you will approve the amendment.

Sen. LAMONTAGNE: Mr. President, I was the only person in the Senate who voted against lowering the voting age to 18. Now, after you voted them to be allowed to vote, you are now voting against some of these 18 year olds becoming entertainers when New Hampshire has a shortage of entertainers. I believe that if you vote in favor of this amendment, you will be doing a great injustice to our young people.

Sen. S. SMITH: I understand that there is another bill before the Senate reducing the majority to 18. If that bill were to pass, would that not take care of this situation of their becoming adults?

Sen. LAMONTAGNE: Yes.
Amendment lost.

Question on ordering HB 666 to third reading.

Division vote: 13 Ayes, 8 Nays.

Adopted. Ordered to third reading.

VACATE COMMITTEE

Sen. PORTER: Mr. President, I move that the order whereby SB 227, providing for equitable actions against polluters of the air, water and other natural resources of the state, was ordered to the Committee on Resources and Environmental Control be vacated and that it be referred to the Committee on Judiciary. The Committee on Judiciary has several other bills of similar nature and it was felt the combination would be more effective.

Adopted.

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock.

Adopted.

LATE SESSION

Third reading and final passage

SJR 20, in favor of Mrs. Ann Morrell.

SB 30, relative to the time after which the requirements of filing proof of financial responsibility may be waived.

HB 268, relative to unauthorized insurance.

HB 181, to provide for the regulation of title insurance.

HB 648, enacting an insurance holding company act.

HB 304, relative to requirements for obtaining a license for granting small loans.

HB 517, relative to the name of cooperative banks, building and loan associations or savings and loan associations.

SB 130, relative to expert witness fees in superior court cases.

HB 303, to extend the jurisdiction of police in the apprehension of motor vehicle registration violators to include semi-public parking lots.

SJR 14, relative to retirement credit for George R. Merrifield.

SB 80, providing veterinary medical education at Ohio State University for New Hampshire residents and making an appropriation therefor.

Sen. Spanos moved reconsideration.

Motion lost.

SB 86, creating the position of executive director of the Commission on the Arts.

Sen. Spanos moved reconsideration.

Motion lost.

SB 197, establishing the salary of the pesticides surveillance scientist.

Adopted.

Sen. DOWNING: Mr. President, I move that HB 666 be made a Special Order of Business for Friday, June 4 at 1:01. I cannot help but feel that there was an error made today when this bill was passed without the amendment. I would like to call to the attention of the Senate that this bill was recalled from the Governor's Office after it passed the Senate because of the concern of the Liquor Commission and other interested parties that our young people could be exploited if this bill is passed in its present form. I would just point out one instance where it would permit 18 year old striptease shows behind locked doors. There has to be proper safeguards or this measure will be abused. Maybe the amendment which was offered was not sufficient, but something else has to be done with this bill other than in its present form.

Sen. LAMONTAGNE: Mr. President, I have always respected the courtesy of making a bill a Special Order, but I am in opposition to this at this time because this has been talked over with the Attorney General who said that these misgivings which we might have are covered by other statutes, therefore, there was nothing to worry about.

Sen. DOWNING: Are you aware that this might not be the information that the Attorney General's Office gave to the Governor's Office and that maybe this might be a point of concern?

Sen. LAMONTAGNE: This was told to us at our Committee meeting and I am not aware of what you mentioned.

Sen. SNELL: Mr. President, I rise in support of the motion. I was the individual who spoke to the Attorney General's Office but I am also aware that certain clubs in New Hampshire do have locked doors and I do feel that the law enforcement people do not have full control over these private clubs. I do feel that under the present amendment, this is the proper form.

Sen. MORRISSETTE: I rise against the motion. Stripteasing is against the law and I doubt that a club would risk losing their license. We should not waste any more time when we have so many bills left to be acted upon.

Adopted. HB 666 made a Special Order.

Sen. KOROMILAS: Mr. President, I move that we reconsider the action of the Senate whereby it failed to order SB 175 to a third reading.

Roll Call requested by Sen. Downing, Seconded by Sen. Nixon.

Ayes: Sen. Lamontagne, S. Smith, Snell, Jacobson, Nixon, Porter, Downing.

Nays: Sens. Townsend, Gardner, Spanos, Leonard, Ferdinando, R. Smith, Morrissette, McCarthy, Provost, Brown, Koromilas, Tufts.

Result: 7 Ayes, 12 Nays, Motion lost.

Sen. R. Smith moved that the Senate adjourn at 4:11 o'clock.

Adopted.

*Thursday**3Jun71*

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

ALMIGHTY and ETERNAL GOD; whose ever-loving presence in our lives enlists our confidence, affords such light and guidance that never fails; whose presence inspires faith, high purpose, and the strong resolve to respond to life's cutting edge in truth and with justice. Redeem us from all that is unworthy, strengthen us in all that is good, and help us to move forward in the way of faith, confidence, love, and service. Mindful that one of our number can not be with us today because of illness, may Thy healing gifts bring to him renewed strength and vitality, hastening his return to our fellowship. Amen.

Pledge of Allegiance was led by Sen. Tufts.

INTRODUCTION OF SENATE BILL

First, second reading and referral

SB 279, relative to registration and operation of motorized golf carts (Snell of Dist. 4 — To Recreation and Development.)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 105, clarifying the commitment of juveniles. (Judiciary)

HB 537, providing for liquor licenses for first class ball-rooms. (Ways and Means and Administrative Affairs)

HB 606, making appropriations for capital improvements. (Public Works and Transportation)

HB 620, to establish a criminal code. (Judiciary)

HB 626, to require higher safety standards in the construction of driveways and other accesses to the public way. (Public Works and Transportation)

HB 688, providing junior and child ski rates for students who are residents of the state. (Resources and Environmental Control)

HB 740, increasing the salaries of certain officials in Sullivan County. (Executive Departments, Municipal and County Governments)

HB 768, relative to sewer rates. (Resources and Environmental Control)

HB 961, relative to supervisory union number seven. (Education)

HB 967, relative to certain veterans preferences in public employment. (Ways and Means and Administrative Affairs)

HJR 46, directing a study of the feasibility of establishing a state park named for Alan B. Shepard in the area of Derry, Londonderry, Litchfield and Manchester. (Recreation and Development)

HOUSE NON-CONCURRENCE

SB 61, relative to imposing sentences of commitment in criminal cases.

SB 112, relative to fingerprinting all state employees.

CACR 13, RELATING TO: the Origination of Revenue-Raising Bills. PROVIDING THAT: Either the House or the Senate may Originate Revenue-Raising Bills.

CACR 15, RELATING TO: The Trial of Crimes. PROVIDING THAT: District Courts may try Crimes Committed in a County other than the County where the Court sits.

HOUSE ADOPTION OF ENROLLED BILLS AMENDMENT

HB 207, relative to the control of radiation.

HOUSE CONCURRENCE

SB 101, providing for the recognition of "middle schools".

SB 108, increasing the membership of the barbers' board.

ENROLLED BILLS REPORT

HB 519, relative to the fees charged in the Registry of Deeds of Carroll County.

Sen. Ferdinando
For the Committee

ANNOUNCEMENTS

The CHAIR would announce that we have a communication from the Supreme Court regarding the questions that were sent to it by resolution of the Senate of May 19, 1971.

COMMUNICATION

To the Honorable Senate:

The undersigned Justices of the Supreme Court submit the following answers to the inquiries contained in your resolution adopted May 19, 1971 and filed with this court on May 20, 1971.

The following questions are contained in your resolution:

"1. Can the General Court enact a statute by a simple majority vote, which authorizes the General Court to prescribe the time and mode for submitting constitutional amendments to the voters?

"2. In establishing the time and mode for submitting an amendment to the voters, is a simple majority vote of both houses sufficient or is a three-fifths vote of each house required?

The attached bill makes it clear that the questions relate solely to amendments to the Constitution proposed by the General Court rather than by a constitutional convention. The provision permitting proposals for constitutional amendments by the General Court was added to our State Constitution in 1964 and reads as follows: "The Senate and House of Representa-

tives, voting separately, may propose amendments by a three-fifths vote of the entire membership of each house at any session." N. H. CONST., pt. II, art. 100 (a). The General Court must comply with the mandatory provisions of pt. II, art. 100 (a) in order to adopt a proposed amendment. *Bednar v. King*, 110 N. H. 475, 272 A. 2d 616 (1970); *Leach v. Brown*, 167 Ohio St. 1, 145 N.E. 2d 525 (1957).

Neither pt. II, art. 100 (a) nor any other provision of our Constitution prescribes the time and mode of submission of proposed amendments to the Constitution. Where the Constitution has failed to specify the mechanics of carrying out a constitutional mandate, the general legislative power of the General Court authorizes it to do so by statute. *Opinion of the Justices*, 76 N.H. 586, 79 A. 29 (1911). See RSA ch. 68-A.

A constitutional convention has no general legislative power but it has been considered to possess limited power by implication when "necessary for the business of preparing questions of revision and submitting them to the people." *Opinion of the Justices*, 76 N.H. 612, 613, 85 A. 781, 782 (1889); *Opinion of the Justices*, 102 N.H. 565, 163 A. 2d 1 (1960). An act of the Legislature prescribing the time and mode of submitting proposed constitutional amendments is a statute properly enacted under the general legislative power of the General Court. N.H. CONST., pt. II, art. 5; 16 C.J.S. Constitutional Law s. 9b (3) (1956); 16 Am. Jur. 2d Constitutional Law s. 36 (1964). Enacted under the general legislative power rather than the special authority of pt. II, art. 100 (a) there is no requirement that the three-fifths mandate of that provision be complied with.

We answer the first question, yes, and the answer to the second question is that a simple majority vote of both houses is sufficient in establishing the time and mode for submitting an amendment to the voters.

Frank R. Kenison
Laurence I. Duncan
Edward J. Lampron
William A. Grimes
Robert F. Griffith

ENROLLED BILLS AMENDMENT

HB 477, relative to fees for registration as professional engineer. Ought to pass with amendment. Sen. Ferdinando for the Committee.

Amend section 4 by striking out lines twenty-two and twenty-three and inserting in place thereof the following:

of May the fee to be paid shall be twice the normal renewal fee. The right of renewal shall be limited to a period of two years from the date of expiration of a certificate. After this period the

Amendment adopted.

FURTHER HOUSE MESSAGE

HOUSE AMENDMENT TO SENATE BILL

SB 111, permitting any town to account on a fiscal year basis, permitting semi-annual tax collection in all towns and providing for an optional town meeting day.

Sen. JACOBSON: I move that SB 111 be laid on the table. Adopted.

COMMITTEE REPORTS

SB 215

relative to regulation of shorthand court reporting. Ought to pass. Sen. English for Education.

Sen. ENGLISH: Mr. President, SB 215 is designed to encourage proficiency in the practice of shorthand court reporting as a profession, to promote efficiency in court reporting, and to extend to the courts and to the public the protection afforded by standardized profession by establishing the standard of competency for those engaged in it. This is a bill presented by Sen. Nixon and I believe he has further explanations to offer.

Sen. NIXON: Mr. President, as the sponsor of SB 215, I rise in support of the Committee report of "ought to pass." The bill was sponsored at the behest of the New Hampshire Superior Court Stenographers Association whose President is Paul Sheehan of Exeter and the New Hampshire Stenographers' Association, which is outside the court structure whose President is Ernest Nolin of Manchester. Again, as was well

expressed by Sen. English, the purpose of the bill is to establish examination procedure for those who desire to engage in this demanding profession, to insure to the public a satisfactory degree of efficiency and proficiency in respect to certified reporters. The certification would be under the jurisdiction of the Governor and Council and there would also be penalties for fraud or misrepresentation, dishonesty and corruption on the part of a certified stenographer. There was no opposition to the bill. It was heard before the Joint House and Senate Education Committees. It would be in the best interest of the people of New Hampshire for this bill to pass.

Adopted Ordered to third reading.

SB 230

including certain cooperative school districts among those school districts which may elect officers at the time and places for the election of town officers in the towns which comprise said districts. Ought to pass. Sen. Jacobson for Education.

Sen. JACOBSON: Mr. President, SB 230 provides for the election of school district officers at town meetings, at the same time that they vote for other town officers. This has become especially comparative in regional school districts which have a number of towns and the bill provides that the candidates for school board from the several towns to regional school district shall be elected in the town at the time of town meeting.

My own experience as moderator of the Kearsarge Regional School District tells me that the present system of having seven checklists, seven ballot boxes, seven groups of supervisors of the checklists is a very confusing kind of arrangement. This lends not to the stability of the school district meeting.

Adopted. Ordered to third reading.

HB 702

relative to qualification for members of a school board. Ought to pass. Sen. English for Education.

Sen. ENGLISH: Mr. President, HB 702 makes a very minor change in the existing law. It provides that no person holding office as a member of a school board shall, at the same time, act as (and this is existing law) district treasurer or auditor, not shall any member of a school board be employed as a teacher (and here is the new word) *administrator* or custodian in the district.

Adopted. Ordered to third reading.

HB 549

relative to revisions and supplements to the law enforcement manual and making an appropriation for an additional printing of the manual. Ought to pass. Sen. Downing for Judiciary.

Sen. NIXON: Mr. President, HB 549 was sponsored by Rep. Kimon Zachos, Chairman of the House Judiciary Committee, at the request of the Attorney General's Office. It provides merely for the printing of revisions and supplements to the law enforcement manual which, under the auspices of the Attorney General's Office, was printed originally during the term of Attorney General Louis C. Wyman for the assistance and benefit of local law enforcement officials and authorities in determining, in quicker and easier fashion than is permitted under the statutes, what their obligations and rights are in respect to arrest and other related procedures.

There was a recent revision of that manual which is some 1500 short in terms of demand by local law enforcement personnel here in New Hampshire. This bill provides an appropriation of \$2,610 for the printing of an additional 1500 manuals, there being 900 requests for additional manuals already not filled, but the money will not be state money. It will be completely federal funds. Nonetheless, there has to be an appropriation in the bill and it is in that fashion that it comes to you. The only witness for the bill in addition to the sponsor was the Attorney General. There was no opposition and the Committee was unanimous in its "ought to pass" recommendation to you.

Referred to Finance.

HB 661,

revising the application of the revised consent law. Ought to pass with amendment. Sen. Koromilas for Judiciary.

AMENDMENT

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Test of Blood. Amend RSA 262-A:69-a (supp) as inserted by 1965, 238:1, as amended by chapter 119:2 Laws of 1969, by striking out said section and inserting in place thereof the following: 262-A:69-a Implied Consent of Driver of Motor

Vehicle to Submit to Chemical Testing to Determine Alcoholic Content of Blood. Any person who operates a motor vehicle upon the public highways of this state shall be deemed to have given consent to a chemical test or tests of any or all or any combination of the following: blood, urine, or breath, for the purpose of determining the alcoholic or controlled drug content of his blood, if arrested for any offense arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor or controlled drugs, provided, however, any person who is afflicted with hemophilia, diabetes or any condition requiring the use of an anticoagulant under the direction of a physician shall not be deemed to have given consent to the withdrawal of his blood provided that any arrested person who refuses to give consent to the taking of his blood under this provision shall not be exempt from the provisions of RSA 262-A:69-a unless he satisfies the director of motor vehicles after notice and hearing that he is afflicted with such a condition. The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor or controlled drugs. A copy of the report of any such test shall be furnished by the law enforcement agency to the person tested within forty-eight hours of receipt of the report by the agency by registered mail directed to the address shown on such person's license or other identification furnished by the person.

Sen. KOROMILAS: Mr. President, HB 661 refers to the implied consent law and the only change that is made in the bill is to include the word, "breath." In other words, since we did pass a bill with respect to breathalyzers, this bill had been prepared prior to that time, therefore the amendment was made to add the category of breath tests.

Sen. NIXON: In the research that you did in connection with your report on this bill, did you find any conclusion having ever been reached by the Judicial Council with regard to the reliability of breathalyzers tests?

Sen. KOROMILAS: I will read from the Judicial Council Report, December 31, 1970, page 44: It talks about blood

and urine tests and goes on — “generally speaking, the various breath tests appear to be the least reliable of all tests.”

Sen. ENGLISH: Is this an either-or implied consent — can you have a choice?

Sen. KOROMILAS: I was going to explain that after I explained the amendment. There was a bill 215 which was introduced last session that would have given the person who was involved in a drunken or drug matter the right to choose his test. There was a Supreme Court case just recently which said that the police have the right to choose the test that the intoxicated person should take. There is a change, however, in the implied consent law. This change allows hemophiliacs or diabetics to refuse to take blood test because they are under some doctor's direction not to be punctured or not to take any anticoagulants, then in that case, a person may refuse taking the blood test. He would have to, however, show the Motor Vehicle Department that he had a doctor's certificate which said that he should not undergo a blood test and if he can show that, then he will not lose his license under implied consent law, but if he cannot, then he would lose his license.

Amendment adopted. Ordered to third reading.

ANNOUNCEMENTS

Sen. ENGLISH: Mr. President, I would like to report on the status of three bills which were in the Committee of Conference. HB 6, which had to do with Hesser College and HB 43, which had to do with White Pines College and HB 99, which had to do with McIntosh College and the degrees which they may grant were included in the Omnibus Bill. The request for a Committee of Conference came from the House and I am informed by the Chairman of the House Committee that they will be killed in the House, the subject matter being included in the Omnibus Bill.

VACATE COMMITTEE

Sen. TUFTS: Mr. President, I move that the order whereby SB 127 and SB 140 were referred to the Committee on Ways and Means and Administrative Affairs be vacated and said bills be referred directly to Finance. These two bills are voluminous bills. They have been worked on by the labor and management

advisory committee which exists in this state at great length. These gentlemen have agreed that these bills should just be required to have one hearing before a Senate Committee rather than have a hearing before Ways and Means and another before Finance.

Adopted.

PARLIAMENTARY INQUIRY

Sen. KOROMILAS: Mr. President, has there been any finalization of any reapportionment bill at the present time?

CHAIR: Not to the best of the knowledge of the Chair.

COMMITTEE OF CONFERENCE REPORT

The committee of conference to which was referred House Bill 277, 'An Act relative to the power of the New England Aeronautical Institute, Hesser College, McIntosh College, White Pines College, Franconia College, Concord College and Pierce College, to grant degrees.' having considered the same report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment and concur in the adoption of the Senate amendment to the bill, and

That the House and Senate each adopt the following amendment to the bill:

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

relative to the power of the New England Aeronautical Institute, Hesser College, McIntosh College, White Pines College, Franconia College, Concord College, Pierce College and New Hampshire College, to grant degrees.

Amend the bill by striking out section 10 and inserting in place thereof the following:

10 Authorization to Confer Degrees. Amend Laws of 1963, 428:1, as amended by Laws of 1969, 579:1 by striking out said section and inserting in place thereof the following: 428:1 Authority Granted. New Hampshire College, a voluntary corpora-

tion organized pursuant to the provisions of RSA 292, a successor corporation to N. H. College of Accounting & Commerce, Inc. and N. H. College of Accounting & Commerce, is hereby authorized to confer upon the graduates therefrom the following degrees: Associate in Science, Bachelor of Science, and Master of Business Administration, and to give customary honorary recognition to outstanding individuals for noteworthy achievement. The granting of the master of business administration shall be subject to approval by the coordinating board of advanced education and accreditation and shall be not before June 1, 1973.

11 Report of Progress at Franconia College. The coordinating board of advanced education and accreditation shall submit a written report concerning the progress of Franconia College during the period of its degree-granting status and shall recommend action be taken relative to said powers by the 1975 session of the general court.

12 Effective Date. This act shall take effect upon its passage.

Amend section 5 of the bill by striking out the same and inserting in place thereof the following:

5 Franconia College. Franconia College, a corporation organized under general law October 20, 1885, under the name of Dow Academy, is hereby authorized to confer upon the graduates thereof the associate in arts degree and the bachelor of arts degree for the period from June 1, 1971 to June 30, 1975.

Amend section 9 of the bill by striking out the same and inserting in place thereof the following:

9 Revocation of Authorization. Upon a finding by the coordinating board of advanced education and accreditation that the educational standards of an institution, which has been authorized by sections 1, 2, 3, 4, 5, 7, 8, or 10 to grant certain degrees, have seriously deteriorated below those in existence at said institution on the effective date of this act or below those commonly acceptable for like institutions, if the general court is not then in session the governor and council may, upon the request of the coordinating board and the report of its finding, suspend and revoke such authority for the balance of the period for which it was authorized.

Rep. Bowles
 Rep. Greene
 Rep. Lemieux
 Conferees on the Part of the House

Sen. English
 Sen. Downing
 Conferees on the Part of the Senate

Sen. ENGLISH: Mr. President, I move that the Committee of Conference Report be adopted. A few weeks ago, the Senate put together seven bills which had to do with the granting of degrees. The House amended this to make an addition of two colleges — one of them was involved in a change of name and to this the Senate Committee approved.

Report adopted.

COMMITTEE OF CONFERENCE REPORT

The committee of conference to which was referred House Bill 348, 'An Act enabling the Department of Fish and Game to recover damages for loss of fish, other aquatic life, wildlife or their habitat due to water pollution,' having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment to the bill and concur in the adoption of said amendment.

Conferees on the part of the House:
 Rep. Oleson
 Rep. Chamberlin
 Rep. Hunt

Conferees on the part of the Senate:
 Sen. Porter
 Sen. McCarthy

Sen. PORTER: Mr. President, I move that the Senate adopt the Committee of Conference Report on HB 348. The members of the Senate met with the respective members of the House and the members of the House acceded to our request to accept the Senate amendment, therefore the bill is as passed by the Senate.

Report adopted.

COMMITTEE OF CONFERENCE REPORT

The committee of conference to which was referred HB 578 'An Act to amend the New Hampshire higher educational and health facilities law' having considered the same report the same with the following recommendations:

That the House recede from its position of nonconcurrency with the Senate amendment and concur in the adoption of said amendment, and

That the Senate and House each adopt the following amendments to the bill:

Amend the bill by striking out section 11 and inserting in place thereof the following:

11 Amend RSA 195-D:18 (supp) as inserted by 1969, 318:1 by striking out said section and inserting in place thereof the following:

195-D:18 Annual Report and Audit.

I. Within four months after the close of each fiscal year of the corporation, it shall make a report to the governor and council of its activities for such preceding fiscal year and such report shall set forth a complete operating and financial statement covering the corporation's operations during the preceding fiscal year including a complete and detached report setting forth:

(a) Its operations and accomplishments;

(b) Its receipts and expenditures during such fiscal year in accordance with the categories or classifications established by the corporation for its operating and capital outlay purposes;

(c) Its assets and liabilities at the end of its fiscal year; and

(d) A schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year.

II. The corporation shall cause an audit of its books and accounts to be made at least once each fiscal year by certified public accountants and the cost thereof shall be paid by the corporation from funds available to it pursuant to this chapter.

Further amend the bill by striking out section 15 and inserting in place thereof the following:

15 Effective Date. This act shall take effect sixty days after its passage.

Conferees on the part of the Senate:
Sen. Tufts
Sen. Downing

Conferees on the part of the House:
Rep. Hughes
Rep. Bowles
Rep. Lemieux

Sen. TUFTS: Mr. President, I move that the Senate adopt the Committee of Conference Report. I have established to my satisfaction the problem that I had the other day when I sat in the Executive Departments' audience and heard testimony involving bonds and notes in regard to the Banking Commissioner. It was the same song that I had heard sung before the Education Committee in this regard and I was troubled that they were apparently trying to bypass the Banking Commissioner and his advice and like the Liquor Commissioner, I feel that they are experienced in their field and that I should listen to their advice. It has become obvious that in our Committee of Conference, we did indeed remove the paragraphs 195-D:17 regarding bonds and notes and I think that perhaps Sen. Jacobson has established for his satisfaction that they are also removed from the Senate Bill which he was hearing. I think that the problems which we had in the duplication of bills and the avoidance of the advice of the Banking Commissioner have been removed and I recommend that the Committee of Conference Report which we adopted will be successful in this body.

Report adopted.

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock in tribute to the distinguished senator from the Twenty-Third District, Sen. Tufts, who was recently presented with the State 4-H Alumni Award for his community leadership, state government, youth education and will be one of the former 4-H Club members to receive national alumni honors in Chicago this Fall.

Adopted.

LATE SESSION

Third reading and final passage

SB 215, relative to the regulation of shorthand court reporting.

SB 230, including certain cooperative school districts among those school districts which may elect officers at the time and places for the election of town officers in the towns which comprise said districts.

HB 702, relative to qualifications for members of a school board.

HB 661, revising the application of the revised consent law.

Adopted.

Sen. Foley moved that the Senate adjourn at 2:14 o'clock.
Adopted.

Friday
4Jun71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

Jesus said, "I am the light of the world: he that followeth Me shall not walk in darkness."

O CHRIST, such words bring us comfort, especially in the knowledge of others who have trusted and proved Thy words of truth and wisdom. Let Thy Light so shine on us that — as we are confronted with choices we may make the proper choice, that our decisions may be right decisions, and that our every action reflects the labor of our lives in advancing the common good. Give guidance to those who guide us, and may we never disappoint any who look to us for direction, but let us move steadily forward in Thy Name and Spirit. Amen.

Pledge of Allegiance was led by Sen. Nixon.

Sen. S. Smith moved that the Senate go into a Committee of the Whole.

Adopted.

(Sen. S. Smith in the Chair)

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 280, relative to the area school contract between the Rochester School District and the Wakefield School District. (Snell of Dist 4 — To Education.)

SB 281, increasing the salary of the Director of Fish and Game. (McCarthy of Dist. 17 — To Recreation and Development.)

SB 282, providing for the reconstruction of the access road to Crotched Mountain Ski Area and making an appropriation therefor. (English of Dist. 11 — To Public Works and Transportation.)

SB 283, appropriating fish and game funds for: studies of pollution of the Merrimack River in certain areas and of the coastal zone environment and establishing an environmental committee. (Morrissette of Dist. 16 — To Resources and Environmental Control.)

SJR 24, permitting the transfer of certain highway reserve funds to the use of cities and towns for road construction and repair. (Morrissette of Dist. 16 — To Public Works and Transportation.)

Sen. ENGLISH: Mr. President, the Clerk has just read into the Senate, SB 280, a bill introduced by Sen. Snell. This is a very brief bill and has only two or three lines to it. I move that the Senate dispense with the printing of SB 280.

Adopted.

Sen. SNELL: Mr. President, I would like to explain SB 280 because you just ruled to hold up printing and act on this piece of legislation. This is basically four lines in length. It is an amendment to a contract relating to the area school contract between Rochester and Wakefield. This would allow the Town

of Wakefield now, through a mutual agreement, that the area school contract include grades 9 through 12 only, helping the Town of Wakefield.

Sen. ENGLISH: Mr. President, I further move that we dispense with a public hearing on SB 280 and that the bill be put on second reading at the present time. The only reason to do this is to simplify the procedure and get this non-controversial bill into the House.

Sen. JACOBSON: Sen. Snell, this is an area school and not a regional school?

Sen. SNELL: This is an area school.
Adopted. SB 280 put on second reading.

Sen. ENGLISH: Mr. President, I move that SB 280 ought to pass.
Adopted. Ordered to third reading.

SUSPENSION OF THE RULES

Sen. SPANOS: Mr. President, I move that the rules of the Senate be so far suspended as to allow for third reading of SB 280 at the present time.
Adopted.

Third reading and final passage of SB

SB 280, relative to the area school contract between the Rochester School District and the Wakefield School District.
Adopted.

Sen. Spanos moved reconsideration. Motion lost.

HOUSE MESSAGES

INTRODUCTION OF HOUSE JOINT RESOLUTIONS

First, second reading and referral

HJR 15, making an additional appropriation to the state treasurer for fiscal 1971 for actuarial services. (Finance)

HJR 18, relative to ascertaining the sense of the people of the state on the question of authorizing dog racing in the state. (Ways and Means and Administrative Affairs)

HJR 19, providing for a deficiency appropriation for the New Hampshire Retirement System. (Finance)

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 15, relative to the practice of public accountancy. (Executive Departments, Municipal and County Governments)

HB 153, relative to horse and dog racing. (Ways and Means and Administrative Affairs)

HB 192, exempting Nashua from the payment of debt time limitation pursuant to changing the dates of the fiscal year. (Executive Departments, Municipal and County Governments)

HB 340, relative to the New Hampshire retirement system and the firemen's retirement system. (Ways and Means and Administrative Affairs)

HB 351, relative to increasing the tax on tobacco products and making an appropriation therefor. (Ways and Means and Administrative Affairs)

HB 496, redistricting the county commissioners districts in Rockingham County. (Executive Departments, Municipal and County Governments)

HB 569, relative to qualifications for the serving of liquor or beverages. (Ways and Means and Administrative Affairs)

HB 619, amending the New Hampshire unit ownership of real property act. (Judiciary)

HB 827, to exempt sales of cigarettes to residents of the New Hampshire soldiers' home from the tobacco tax. (Ways and Means and Administrative Affairs)

HB 892, providing for an annual salary for members of the Nashua Board of Education. (Education)

HB 905, relative to the erection, maintenance and regulation of crematories. (Public Health, Welfare and State Institutions)

HB 964, relative to real estate investments by cooperative banks, building and loan associations and savings and loan associations. (Banks, Insurance and Claims)

HB 979, prohibiting the sale or installation of certain space heaters. (Banks, Insurance and Claims)

HOUSE NON-CONCURRENCE

SB 149, relative to election procedures of the Contoocook Valley School District.

SB 74, authorizing free hunting licenses to owners of one hundred or more acres of land who permit hunting thereon.

HOUSE CONCURRENCE TO SENATE AMENDMENT

HB 661, revising the application of the implied consent law.

HOUSE CONCURRENCE

SB 133, relative to the Uniform Reciprocal Enforcement of Support Act.

SB 62, establishing statutory rights in lieu of dower and curtesy.

HOUSE ADOPTION OF COMMITTEE OF CONFERENCE RECOMMENDATIONS ON

HB 578, to amend the New Hampshire higher educational and health facilities law.

HB 348, enabling the Department of Fish and Game to recover damages for loss of fish, other aquatic life, wildlife or their habitat due to water pollution.

HB 277, relative to the power of the New England Aeronautical Institute, Hesser College, McIntosh College, White Pines College, Franconia College, Concord College and Pierce College to grant degrees.

FURTHER INTRODUCTION OF HOUSE BILL

First, second reading and referral

HB 918, making appropriations for the expenses of certain departments of the state for the fiscal years ending June 30, 1972, and June 30, 1973. (Finance)

ENROLLED BILLS REPORT

HB 268, relative to unauthorized insurance.

HB 303, to extend the jurisdiction of police in the apprehension of motor vehicle regulation violators to include semi-public parking lot.

HB 304, relative to requirements for obtaining a license for granting small loans.

HB 387, extending the time within which pari-mutuel pools may be sold.

HB 517, relative to the name of cooperative banks, building and loan associations or savings and loan associations.

Sen. Ferdinando
For The Committee

SENATE CONCURRENCE TO HOUSE
AMENDMENT

SB 161, increasing the penalties for throwing trash on highways or highway right-of-ways.

(See HJ 3 June 71 for amendment)

Sen. PORTER: Mr. President, I move that the Senate concur with the amendment as offered by the House. The amendment, which I have talked over with the sponsor of the bill, Sen. Jacobson, deletes the words, "owner or" in section 2 of the proposed bill so that the operator of such a motor vehicle who has committed this violation is now the defendant.

Amendment adopted.

SUSPENSION OF THE RULES

Sen. JACOBSON: Mr. President, I move that the rules of the Senate be so far suspended as to allow for the introduction of a Committee Report not previously advertised in the *Calendar*.

The matter in question is HB 189, authorizing the General Court to provide for the time and mode for submitting constitutional amendments proposed by it to the voters. The House is taking up the question on Tuesday and they need

this bill after the Court decision has affirmed that this bill would be proper.

Adopted.

COMMITTEE REPORTS

HB 189

authorizing the General Court to provide for the time and mode for submitting constitutional amendments proposed by it to the voters. Ought to pass with amendment. Sen. Jacobson for Executive.

AMENDMENT

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Authority Granted. Amend RSA 14 by inserting after section 43 the following new subdivision:

Submission of Proposed Constitutional Amendments

14:44 Time and Mode of Submitting Amendments. The amendments to the constitution as are proposed by the general court shall be submitted so that they can be voted on by the qualified voters either separately or by groups as the general court may determine. The general court shall prescribe the time and mode of submitting such amendments to the voters for their approval, shall provide for ascertaining the voter's decision and the publication of the same by executive proclamation which shall be the effective date unless otherwise determined by the general court. No amendment shall be submitted to the voters hereunder, except at a statewide primary or general election. The general court may do any and all other things necessary, (including requiring that absentee balloting thereon be provided for if the general statutes do not so provide) to carry out the authority granted to it by article 100 of part 2 of the constitution of New Hampshire to propose amendments.

Sen. JACOBSON: Mr. President, what HB 189 does is to give the Legislature greater flexibility setting the time and mode whereby constitutional amendments may be presented to the people. As all will recall, we sent over to the Supreme Court asking for an opinion with regards to the question in HB 189 whether the vote must be by three-fifths vote or majority. The Supreme Court sent back an opinion that the time

and mode may be by a majority vote. As you know and can see by the Calendar, on next Tuesday, the House will take up a series of proposed amendments to the Constitution so that it would be of a matter of convenience to them to carry out this particular function.

The amendment deals with the question of limiting the placing of constitutional amendments on ballot at only those times when there is a state-wide election, either a primary or a general election. The bill, as originally written, would have allowed the setting of time and mode on some other days such as August 15 or May 21 or April 1 and the Committee felt that that could be too far reaching so that at the present time, the Legislature, if this bill is accepted, could have constitutional amendments set at the Presidential Primary in March, state-wide primary in September or the general election in November.

Amendment adopted. Ordered to third reading.

SUSPENSION OF RULES

Sen. JACOBSON: Mr. President, I move that the rules of the Senate be so far suspended so as to allow that HB 189 be placed on third reading at the present time.

Adopted.

Third reading and final passage of House Bill

HB 189, authorizing the General Court to provide for the time and mode for submitting constitutional amendments proposed by it to the voters.

Adopted.

Sen. Jacobson moved reconsideration. Motion lost.

SB 201

relative to the state apprenticeship council. Ought to pass with amendment. Sen. Downing for Education.

Sen. DOWNING: Mr. President, SB 201 reorganizes the apprenticeship council so as to make it more effective and to accomplish the objectives which were originally designed for it to do. It seems that appointees to the council have really not had sufficient interest in this particular area. They haven't had the necessary requirement to have an interest in apprenticeship

and this would reorganize the council totally. The Labor Commissioner is very much in favor of this and this is very much needed. I urge your support.

Amendment adopted. Ordered to third reading.

SB 203

amending the percentage limit of out-of-state students enrolled at the University of New Hampshire. Inexpedient to legislate. Sen. English for Education.

Sen. ENGLISH: Mr. President, SB 203 would amend the percentage limit of out-of-state students enrolled at UNH. The Committee gave careful consideration to this proposal. This matter of percentage of out-of-state students has many ramifications and it has been a matter before the Legislature at all recent sessions.

The proposal by the distinguished Senator from District 16 did not appear to be in a form which would serve the best interests of either the state or the University. The Committee felt that this general matter of limit of out-of-state students requires further study which is not possible to give to it in view of the complexities involved.

Sen. MORRISSETTE: Mr. President, I move that the words, "ought to pass" be substituted for "inexpedient to legislate." I introduced this bill after months of study. I made trips to UNH, studied their budgets and I concluded that it was about time that we stopped supporting students from out-of-state in order to make it possible to have the best of education for our own students. I realize that this bill may be unpopular but I feel it is necessary to maintain our university system. If we don't do something immediately, we will end up with a university which will only support the rich and the poor will be eliminated.

I have logically concluded that it would save approximately \$5 million. I based it on a fact that no college can support the student in full. I have a report that I got at the University which indicated a total budget of close to \$85 million. If you were to divide that by the total number of students, you would see that it costs almost double to support a student than what we get in tuition. I recognize that if a college was all out-of-state students and they all paid the \$2,000 fee, that we obviously would have a situation where we wouldn't have to raise the money from the

General Fund. Most colleges have other sorts of revenue that come in besides the tuition and the General Funds and this is where we are losing out. I have an article from the paper which brings out that in Massachusetts, it is limited to 5 percent of the students. The educators will claim that it is better for your sons and daughters to be exposed to students from other states. I don't agree with that concept and feel that it is an old-fashioned concept which no longer holds ground. With the media today, they certainly are exposed enough to the thinking of students of other states.

I would like to bring out that I think it is a deplorable condition. We received the budget this week and I am very upset with it. Out mentally retarded children's programs have been cut to a point where you will have to send some of them home. Foundation aid has been cut below what it was two years ago. In our State Hospital, the original budget called for a mark-up of 8 percent. The non-public school program is certainly going to be brought down to its knees.

We have to start now if we are going to maintain a university for everyone in the state. I am very disappointed at the Education Committee coming in with this report. We have to think of the students in this matter. I hope that this body will consider this matter further. Let's not be indifferent to a situation which has the public against us. We must get and retain the confidence of the public.

Sen. LEONARD: Sen. English, do you have the figures indicating what the percentage of out-of-state students are?

Sen. ENGLISH: I am sorry, I don't have the precise figures — only general figures.

Sen. LEONARD: What are they?

Sen. ENGLISH: It is approximately 25 percent.

Sen. LEONARD: How does this 25 percent compare with other states?

Sen. ENGLISH: I do not have this information here.

Sen. LEONARD: Do you know whether or not the percentage of out-of-staters in our graduate schools is about the same or higher than in our undergraduate schools?

Sen. ENGLISH: The graduate schools are higher because many of the programs are possible because of specially selected out-of-state students. They don't have the facilities of selecting in-state students but they have the ability to choose among the ability of out-of-state students.

Sen. LEONARD: So that the graduate students might be close to 50 percent of out-of-state students?

Sen. ENGLISH: I am not sure.

Sen. TOWNSEND: Have there been any in-state students refused at the University because of the over population of out-of-state students?

Sen. ENGLISH: I feel quite sure that they have not.

Sen. KOROMILAS: Sen. Morrissette, you stated that you had made an in-depth study of the conditions at the UNH with respect to this question — is that correct?

Sen. MORRISSETTE: I put many days into it. I don't know if that is an in-depth study or not, but I did conclude that we must act.

Sen. KOROMILAS: So the answer to my question as to whether your study was in-depth is "no"?

Sen. MORRISSETTE: I cannot understand what you mean by "in-depth". The study which I made was deep enough to conclude that there are things which are drastically wrong.

Sen. KOROMILAS: What other factors did you discover that brought you to the conclusion that something should be done in this particular area?

Sen. MORRISSETTE: I concluded that there were many areas, for example I talked with various educators and professors and concluded that many courses could be eliminated. We must make some effort to show our people that we are interested in education.

Sen. KOROMILAS: If we were to cut down on out-of-state students in this state, could it not be possible that other states might do the same with respect to New Hampshire students going out-of-state?

Sen. MORRISSETTE: Absolutely not because this is a matter of tradition.

Sen. LAMONTAGNE: Are you aware that the 25 percent requirement is set up by statute?

Sen. MORRISSETTE: It is supposed to be 25 percent — yes.

Sen. LAMONTAGNE: Are you also aware that if they reduce that percentage, we would lose quite a bit of funds?

Sen. MORRISSETTE: Yes.

Sen. JACOBSON: Mr. President, I rise in opposition to the pending motion, not because I do not believe that the situation should be studied because, in fact, I believe it should be studied. I believe this 25 percent formula should be studied, partly because that at the time which this was first instituted, there was a different kind of demography in New Hampshire than there is now. However, I am hopeful that SB 79 will pass ultimately the House and if that commission is established, which has as its intention to study the way in which we spend our money on higher education, that this question, which is a serious one with relationship to financing, ought to be studied thoroughly by the members of that commission. That is one of the reasons why I oppose this bill at the present time because we simply did not have the time to go into what would be, not only the financial result, but the social results of passing this piece of legislation. But, I think it should be brought in mind by all of us that the question is a very serious one. Incidentally, the Wagner School is on a 44 percent mix factor — 44 percent out-of-state and 56 percent in-state. The reason, of course, is that, as Sen. English stated, providing the selectivity for those who provide the matrix for assistantship in the university. Whether this is good, I do not know the answer to. I think the question should be studied, but to pass the bill without giving it a full and thorough study, I think would be faultish.

Sen. MORRISSETTE: Do you think that it is good public policy when the people read in the headlines of the UNH budget of \$83 million and then we turn around and read that the Laconia State School has been cut \$1,000,106; State Hospital, \$2 million. Do you think we owe the people the responsibility to try to cut down in some areas?

Sen. JACOBSON: If the senator intends to mean, do we owe to those persons who need the services of the Laconia State School and those communities that need support for non-public schools support, then I say "yes", they need it. I don't believe the issue at the moment is clearly a budgetary question. It goes much deeper than the budget question so that I am not quite sure that the question you asked is related to the issue at hand.

Sen. MORRISSETTE: Do you feel that it would be best to send this bill to the Legislative Study Committee so that they can look at the complete situation?

Sen. JACOBSON: I am hopeful that if SB 79 is adopted and that commission is established, that they will take up that question.

Sen. LEONARD: Sen. Jacobson, you are in the educational field, would you agree with the statement that the more out-of-state students at the University, the less number of openings for New Hampshire students?

Sen. JACOBSON: That is a possibility but it would depend upon the methodology which we use. At the present time, you have to be in the upper 40 percent in order to qualify for admission to the University so there is a restriction on New Hampshire students at the present time on that matter.

Sen. LEONARD: Would you agree with this statement: that we have students in the State of New Hampshire that might be below 40 percent but merit an education?

Sen. JACOBSON: That depends upon the concept of what a university is.

Sen. LEONARD: Well, isn't the primary purpose of a university to train New Hampshire citizens for teaching, agriculture and so forth?

Sen. JACOBSON: I don't know precisely what the university intention is. My idea of a university — I always differentiate with the idea of higher education. I believe in higher education, not necessarily of the same type for everyone.

Sen. LEONARD: Well, mathematically speaking, if we have two or three times as many N. H. students applying for admission to the university than are acceptable, then every spot that is filled by an out-of-stater is taking a spot away from a New Hampshire student?

Sen. JACOBSON: If, in fact, there are those who live in the state and are residents and who qualify and, at that moment, they start taking those people who are up in the 30 percent in order to get a higher intellectual achievement level, then, in fact, we are doing that.

Sen. MCCARTHY: Sen. Jacobson, I have heard you refer several times to demography. I think Sen. Morrissette's interpretation of your use of the word is that this is so that our children and students can meet people from different states. Recently, with a conversation with a very responsible person from the UNH, they said that one of the reasons why we have to accept so many students from outside of this state is to give those few qualified students from our state an opportunity in many different areas such as electrical engineering and so forth. The reason for this being that our population would not support this. Do you think there is any merit in that postulation?

Sen. JACOBSON: I do not have the facts at hand on this except in the area of compact relationships such as the one dealing with veterinary medicine that passed this house. We have a compact with the University of Vermont but I don't know how reciprocal this arrangement is with other states.

Sen. DOWNING: Sen. Morrissette, I would like to explore a little further where you feel we would save money. Would you, in reducing the out-of-state population to 5 percent, would it be your intention to replace the 20 percent with in-state students or just have less students at the University?

Sen. MORRISSETTE: My objective would be to stop this unreasonable growth. The growth is so much faster than our population increases to support it.

Sen. DOWNING: Do you realize that for every out-of-state student who you replace with an in-state student, you would double the cost of educating that youngster?

Sen. MORRISSETTE: It would work out the other way around. I recognize that if you were to replace the 500 or 600 out-of-state students today, you definitely would have an increase in costs, but not if you phased it out and stopped the expansion caused by out-of-state students.

Sen. DOWNING: Then your real objective is to educate less students?

Sen. MORRISSETTE: Less students but more in-state students. The excuse which disturbed me greatly given by the Education Committee is that none of our state's students are refused. I claim this to be an untruth. To give an example, my own son was refused because he wasn't smart enough but he did make dean's list and today, at 25 years of age, is operating two corporations. They are refusing in-state students — there is no doubt about that.

Sen. KOROMILAS: Sen. Jacobson, you stated that under SB 79, higher education would be studied and included in that would be a study of the social effects which out-of-state students have on local students. Could you tell us the parameter or methodology of such a test?

Sen. JACOBSON: Well, I would say that the commission would have to first establish its parameters of the range of its study and then proceed with the methodology which would be sufficient to the cause thereof.

Sen. MORRISSETTE: I withdraw my motion to substitute "ought to pass" for "inexpedient to legislate". I would like to move to refer this to the Legislative Study Committee for further study.

Adopted. Referred to Legislative Study Committee.

PERSONAL PRIVILEGE

Sen. SPANOS: Mr. President, I received a long distant telephone call and I was not here when the motion to substitute was put forth and would like to have the record show that had I been here, I would not have supported the motion offered by Sen. Morrisette either for "ought to pass" or that it be referred to the Legislative Study Committee. The reasons I would have given are as follows: the very fact that we here are discussing a bill of this nature is symbolic of my opposition that I don't believe that we, as legislators, should interfere, in any way, in the policy decisions that are being made by those who guide the destinies of the university system. I don't presuppose to know any more than anybody else here, but I am sure that those who are the guardians of that intellectual community at Durham know what they are doing and I am worried that matters of this nature imposed upon that community by legislators signals the death knell of the intellectual community.

Sen. Bradshaw in the Chair

FURTHER MESSAGE FROM THE HOUSE

INTRODUCTION OF HOUSE JOINT RESOLUTION

First, second reading and referral

HJR 54, making a supplemental appropriation for the racing commission. (Finance)

COMMITTEE REPORTS

HB 182

relative to the power of Concord College to grant degrees. Inexpedient to legislate. Sen. English for Education.

Sen. ENGLISH: Mr. President, HB 182 which concerns the degree program at Concord College is reported "Inexpedient" because the subject matter was included in the Omnibus Bill HB 277.

Resolution adopted.

SUSPENSION OF THE RULES

Sen. ENGLISH: Mr. President, I move that the rules of the Senate be so far suspended as to allow for the introduction for a Committee Report without a public hearing, the subject mater being HB 540.

This bill was heard by a special committee involving the Keene delegation and it came to the Senate. I spoke with the Keene delegation on this.

Adopted.

HB 540

amending the charter of the union school district of Keene to provide that the treasurer be appointed by the school board. Ought to pass. Sen. English for Education.

Sen. ENGLISH: Mr. President, HB 540 is a charter bill, unopposed and supported by the Keene School Board. The proposals involved in this bill having to do with the charter change that must go to the citizens of Keene for referendum.

It proposes changes in the method of election of school district officers and makes other proposed changes in connection with the election of the treasurer.

Adopted. Ordered to third reading.

HB 544

to provide for review of area school plan and withdrawal after the third anniversary. Ought to pass. Sen. Tufts for Education.

Sen. TUFTS: Mr. President, HB 544 merely provides that instead of the present situation of a review of an area school plan after five years, that our statutes will now allow the review to occur after three years. The Committee recommends that this is in the best interest of the school and the state.

Sen. NIXON: Sen. Tufts, does this mean that if a small school has gotten into an area school plan and thereafter torn down its high school, sent its children to the area school, committed itself in a sense, that it could be kicked out of the area school plan on a three year notice instead of a five year notice?

Sen. TUFTS: No, I don't believe it needs to be stated as that. It is a negotiation situation between the towns. They vote and in the democratic fashion decide the matter. It isn't a question of either the bigger town saying, no, they will not, or the smaller town saying we no longer wish to send our student to your school and we will build our own. It is a matter of people sitting down together and deciding which way they want to go.

Sen. NIXON: Can you tell me whether this bill emanates from the State Department of Education or from the school board of a receiving town or sending town or what is its origin?

Sen. TUFTS: I cannot go into it accurately. I will say that the sponsor of the bill is Rep. Lockhart of the very small island community of New Castle. As background, I think that New Castle has been sending its high school children to the bigger city of Portsmouth. They are in close conjunction and share other facilities other than education. I think Portsmouth is developing the possibility of an area school plan with those communities rather than the tuition situation which exists at present.

Sen. S. SMITH: Is it not true that under this bill, that on this review period that the only way in which a sending town may separate itself from an area school district is by paying its full share of bonding outstanding in which it committed itself in the original contract and in ensuing bonding?

Sen. TUFTS: I would have to go to the statutes and check that. I will accept that you have knowledge of the question.

Adopted. Ordered to third reading.

HB 717

authorizing New Hampshire College to confer academic degrees and honorary degrees. Inexpedient to legislate. Sen. English for Education.

Sen. ENGLISH: Mr. President, HB 717, which concerns the degree program at New Hampshire College, is reported "Inexpedient" because the subject matter was included in the Omnibus Bill HB 277.

Resolution adopted.

HB 872

to amend the charter of New England College. Ought to pass. Sen. English for Education.

Sen. ENGLISH: Mr. President, in connection with HB 872, the passage of HB 872 clarifies and regularizes certain borrowing required by New England College. The amendment to the charter provided by this bill was endorsed by the President, Jerry Chase and so far as can be learned there is no source of opposition.

SB 134

relative to the construction industry. Ought to pass with amendment. Sen. Nixon for Judiciary.

AMENDMENT

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Bond Required of Contractor. Amend RSA 447 by inserting after section 5 the following new section: 447:5-a Bond Required. Any contractor who contracts with a sub-contractor whereby the latter is to perform labor or furnish materials in the amount of five hundred dollars or more shall give sufficient security, by bond or otherwise, to secure the payment of the contract price in an amount equal to such price, or of the estimated cost of the work if no aggregate price is agreed upon. Upon the payment to the sub-contractor for all labor performed and materials furnished in carrying out said contract, such bond or other security shall terminate and be discharged.

2 Effective Date. This act shall take effect sixty days after its passage.

Sen. NIXON: Mr. President, SB 134 was sponsored by Sen. Brown and its purpose is to require a contractor to give bond with respect to any contract involving labor & materials in the amount of \$500 or more to secure the payment of subcontractors who work for him on the same job. When the job is done, he is paid by the owner. The bond can be given either in terms of an insurance surety bond or in cash or any other means. It is a protection for subcontractors in connection of the performance by them of work for contractors in terms of getting paid by non-resident contractors for whom they do work.

Sen. BROWN: Mr. President and members of the Senate, I sponsored this bill because there are a great many small contractors within our state who employ only one or two men and they deal in small amounts from \$500 to \$2000. They are not too financially strong and one or two jobs with a loss of money could put them in bankruptcy. There have been many bankruptcies, particularly within the residential builder and under our present laws, the small contractors have no recourse and I believe that this would give them that recourse so that he could collect his just due.

Amendment adopted. Ordered to third reading.

SB 135

to license private detectives and private detective agencies. Ought to pass with amendment. Sen. Nixon for Judiciary.

AMENDMENT

Amend RSA 106-E:1, III as inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

III. "Private detective" shall mean a person who is engaged for hire or reward in the business of collecting information, protecting property, seeking the return of property or otherwise doing investigative work for a private rather than a public interest. The term shall include, without limitation, patrol agency, private police and private guards, but shall not include night watchmen, or security guards, or security police employed by public or private institutions or employers to guard or secure the premises of their employer only, insurance adjustors

licensed as such, nor detectives or police officers of the state or any municipality, sheriffs, deputy sheriffs nor constables while said persons are engaged in public employment.

IV. "Board" shall mean the detective licensing board as established by this chapter.

Amend RSA 106-E as inserted by section 1 of the bill by inserting after section 1 the following new section 2:

106-E:2 Board Established: Duties and Compensation. There is hereby established within the state police a detective licensing board, consisting of the director of the state police, the chairman of the New Hampshire judicial council or his designate, and the president of the New Hampshire Bar Association or his designate. The board shall generally supervise and regulate the activities of detective agencies and private detectives in New Hampshire and shall have such other duties as are herein set forth. The board members shall serve without compensation, but shall be reimbursed for their reasonable expenses from the license fees herein provided for.

Amend the original RSA 106-E:2 as inserted by section 1 of the bill by striking out said section and inserting in place thereof the following:

106-E:3 License Required.

I. No person shall engage in the business of, or operate as a private detective or operate a detective agency in this state without first obtaining a license to do so from the detective licensing board. The board shall not issue a license to a private detective or private detective agency without first obtaining and approving:

- (a) An application filed in proper form;
- (b) A fee of one hundred dollars;
- (c) A surety bond as hereinafter provided; and
- (d) Evidence that the applicant is at least twenty-one

years of age.

II. The board may also make such additional inquiries it deems necessary into the character, integrity and reputation of the applicant.

III. An application for a license may be denied upon failure of the applicant to provide information required or upon a finding that the applicant does not meet a high standard as to character, integrity and reputation.

IV. The board shall have the power to implement the provisions of this section by making such reasonable rules and regulations as it deems necessary, not inconsistent with the provisions hereof.

Amend RSA 106-E:3, 4, 5, 6, 7 and 8 as inserted by section 1 of the bill by renumbering said sections to read respectively:

106-E:4

106-E:5

106-E:6

106-E:7

106-E:8

106-E:9

Amend the newly numbered RSA 106-E:4, IV as inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

IV. Information regarding the person applying, including prior felony convictions, if any, and an indication whether prior detective licenses have been issued to him, or revoked, in this or any other state;

Amend the newly numbered RSA 106-E:5, II as inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

II. All employees of an agency shall carry identification issued by the board indicating the licenses by whom the agent, operative or assistant is employed.

Amend the newly numbered RSA 106-E:6 as inserted by section 1 of the bill by striking out said section and inserting in place thereof the following:

106-E:6 Surety Bonds. The surety bond required herein shall be conditioned that the principal of the bond shall conduct business in a lawful and honest manner without committing, aiding in the commission of or compounding any criminal offense. Said bond shall be filed with and safely kept by the secretary of state and may be sued upon by the attorney general

of the state in the name of the state or by any person injured by a breach of any condition thereof. The principal sum of the bond shall be twenty-five thousand dollars.

Amend the newly numbered RSA 106-E:8 as inserted by section 1 of the bill by striking out said section and inserting in place thereof the following:

106-E:8 Revocation. The board shall have the power to revoke a license issued under this chapter, after hearing if just cause is shown why said license should be revoked. In the event of revocation for cause no part of the license fee shall be refunded.

Amend RSA 106-E as inserted by section 1 of the bill by inserting after the newly numbered section 9 the following new section:

106-E:10 Appeals. Procedure. Burden of Proof. Suspension of Order. Appeals from decisions of the board to the superior court shall be permitted as a matter of right if taken within thirty days of the date that a decision of the board is mailed, via certified mail, to the detective agency, private detective, or applicant, complaining of such decision, and not otherwise. In any such appeal the right to trial by jury shall obtain, and the burden of proof shall be upon the party seeking to set aside any decision by the board to show that the same is clearly unreasonable or unlawful. No appeal taken from a decision of the board shall suspend the operation or effect of such decision; provided that a justice of the superior court may decree a suspension of any such decision pending the determination of any such appeal whenever, in his opinion, justice may require such action.

Sen. NIXON: Mr. President, SB 135 was sponsored at the behest of the New Hampshire State Police. It was supported in testimony at the hearing by Cape. Paul O'Leary, the Commanding Officer of the State Police Criminal Intelligence Unit and by Chief Bruce Cheney of the Gilford Police Dept. and also representing the New Hampshire Association of Chiefs of Police and there was no opposition to the bill. Its purpose is to provide a means whereby private detective investigation work done here in New Hampshire is done under reasonable supervision and under a licensing law. The bill, in original form, would have had the Director of the State Police as the licensing

and regulating agency. In amended form, the regulation and licensing is conducted under the auspices of a licensing board consisting of the Director of the New Hampshire State Police, the Chairman of the New Hampshire Judicial Council or his designee and the President of the New Hampshire Bar Association or his designee. In addition, the bill exempts from its provisions, private security guards and property guards employed by private employers to guard only the premises where they carry on their operations. It covers such things as the patrolling and investigation of breaks of private camps and investigation of all types of conduct in connection with domestic relations actions and other similar investigations. Exempt from the bill also are insurance adjusters licensed under the licensing law pertaining to them.

The bill is thought to be a good one. The reason was given at the hearing for its introduction was that there are quite a few investigating agencies in operation coming over the border, particularly from Massachusetts. They have police uniforms, badges and bear weapons and have cruisers that sometimes cause people confusion in thinking that they are town police officials. Sometimes their conduct has not been of the highest character. These are the reasons for the bill and why it ought to pass as amended.

Amendment adopted. Ordered to third reading.

HB 287

permitting the Director of Welfare to manifest payment of non-federal funds for the work incentive program. Inexpedient to legislate. Sen. Koromilas for Public Health, Welfare and State Institutions.

Sen. KOROMILAS: Mr. President, HB 287 is covered by HB 464 which is next on the Calendar.

Resolution adopted.

HB 464

relative to participation in the work incentive program. Ought to pass. Sen. Koromilas for Public Health, Welfare and State Institutions.

Sen. KOROMILAS: HB 464 is a bill which would authorize the Commissioner of Employment Security to contract to the federal government with respect to contracts under the work incentive program. There is some interesting language in this

particular bill which requires that all records that are part of this program have to show the race, color, ethnic origin, creed or religion of any individual. In other words, this is a requirement of the federal government. The reason why this is a requirement is because the federal government wants to know that the minorities are treated fairly and properly. This would allow the state to go into the ABC Program which is 80 percent funded by the federal government and 20 percent by the state. What it does is to allow the state to contract, to train mothers on ABC to become gainfully employed. It pays them \$30 more than what they get on public welfare, however, if they refuse to take the training program so they can learn a skill, they lose welfare. If they drop out of a course, they can also have welfare taken away.

This whole idea is to give incentive to people on welfare to give them the skill to make them a productive citizen.

Adopted. Ordered to third reading.

HB 187

to revise the procedures governing the practice of dentistry in the State of New Hampshire. Ought to pass with amendment. Sen. Korolimas for Public Health, Welfare and State Institutions.

AMENDMENT

Amend RSA 317:5 as inserted by section 1 of the bill by striking out said section and inserting in place thereof the following:

317:5 Report; Receipts. The board shall make an annual report of its proceedings to the governor by June thirty in each year, and all fees and fines received by the board shall be paid monthly by the secretary-treasurer to the state treasurer.

Sen. KOROMILAS: Mr. President, the amendment has to do with the payment of fees by dentists and hygienists to the state treasurer. The bill itself came in with a new concept of setting up quasi-trust fund for these funds. The Committee felt there was probably a rational approach but also felt that if this happened, every other professional group may come forward with the same change. For that reason, the Committee decided to put the situation as it was under the previous dentistry legislation.

Amendment adopted. Referred to Finance under the rules.

HB 564

relative to increasing the membership of the advisory commission on health and welfare. Ought to pass. Sen. Gardner for Public Health, Welfare and State Institutions.

Sen. GARDNER: Mr. President, HB 564 does two things: it increases the membership of the advisory commission on health and welfare and provides, by statute, that a registered nurse serve on the board. This is the third time a bill of this sort has been presented to the House to provide for a nurse to be a member of the advisory commission on health and welfare. A nurse was represented on the board at one time, but not by statute. However, when she resigned, the vacancy was not filled by another nurse. For the past three vacancies on the commission, a nurse has not been appointed. Although promises were made that this would be done, this bill would require that a registered nurse from two or more candidates nominated by the N.H. Nurses' Association be added to the commission and that would increase the membership on the commission by one.

Sen. NIXON: Mr. President, I rise in support of HB 564 for the reasons ably set forth but in addition, for the reason that I think that a nurse with her background would benefit the public as a member of the advisory commission.

Sen. SPANOS: Mr. President, I rise in support of the motion that HB 564 ought to pass.

Roll call requested by Sen. Koromilas. Seconded by Sen. Foley.

Ayes: Sens. Lamontagne, S. Smith, Snell, Townsend, Gardner, Jacobson, Spanos, Nixon, English, Porter, Leonard, Ferdinando, Morrissette, McCarthy, Provost, Brown, Koromilas, Downing, Tufts, Foley.

Result: 20 Ayes.

Adopted. Ordered to third reading.

HB 669

to eliminate the blood test requirement for barbers and hairdressers. Ought to pass with amendment. Sen. Gardner for Public Health, Welfare and State Institutions.

Sen. GARDNER: Mr. President, I would like to move that HB 669 be made a Special Order of Business for Tuesday, June 8 at 1:01 o'clock. In going over the bill, there was one section eliminated and another one substituted and we found, in going over the bill, that there were some examinations such as tuberculosis which was omitted. We feel that this should be retained and this is the reason for the special order so that it may be inserted again.

Adopted. HB 669 made a Special Order of Business.

HB 822

relative to the enforcement of regulations of the Director, Division of Welfare. Ought to pass. Sen. Snell for Public Health, Welfare and State Institutions.

Sen. SNELL: Mr. President, this has to do with violations concerning children's homes within this state and amending RSA 170-18 giving the Division of Welfare a much stronger position in penalty clauses. These individuals who do violate various activities as far as health and safety in a given home for children can be fined up to \$100 and imprisoned not more than one year and for each day that this violation continues, they also can receive the same penalty so this is actually a very fine piece of legislation and one that we really need.

Adopted. Ordered to third reading.

HB 652

to exclude animals from restaurants and stores that sell food. Ought to pass. Sen. Koromilas for Public Health, Welfare and State Institutions.

Sen. KOROMILAS: Mr. President, HB 652 does exactly what the title indicates — it prohibits dogs going into restaurants and food stores except seeing eye dogs for blind persons. There is a fine attached to any person who does bring an animal in of \$25.

Sen. SPANOS: Mr. President, I rise in support of HB 652.
Adopted. Ordered to third reading.

HB 690

providing a closed season for salt water smelt. Ought to pass. Sen. Tufts for Recreation and Development.

Sen. TUFTS: Mr. President, the title of this bill is not a correct disclosure of the subject matter because the subject does not change any closed season nor opened season. The length of the season remains the same. It has been and it will remain April 15 to July 1. What the bill does do is solely to take the entire area and refer to it as salt water and salt water smelt. The present statute enumerates the names of the rivers involved and the waters and in some cases, they were erroneous. This delineated the water solely as salt water and removes the naming of the specific bodies of water.

Adopted. Ordered to third reading.

HB 689

providing that bow nets and dip nets may be used in certain rivers. Ought to pass. Sen. Tufts for Recreation and Development.

Sen. TUFTS: Mr. President, HB 689 is a very minor situation. This continues the use of dip nets in certain rivers and adds that a bow net may be used in certain salt water areas. The testimony heard in our hearing indicated that bow nets would be added with the permission of the Fish and Game people. A bow net is bigger than a dip net which is inserted through the ice by hand.

Adopted. Ordered to third reading.

HB 703

providing that no person shall furnish to another person a license issued to himself. Ought to pass with amendment. Sen. Koromilas for Recreation and Development.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Red Crabs. Amend RSA 211 by inserting after section 18-b the following new section: 211:18-c Red Crabs. Notwithstanding any provisions of this chapter to the contrary any resident may take twelve red crabs a day without a license.

3 Effective Date. This act shall take effect sixty days after its passage.

Sen. KOROMILAS: Mr. President, the amendment to HB 703 covers an area which is not really part of the bill. What it does is to allow a resident to take 12 red crabs a day. The reason for this amendment is that many people who are fishing

or on the seashore have been picking up red crabs and are violating a law because the law requires that you must have a license to catch these crabs. This amendment would allow a resident only to take 12 red crabs a day.

Amendment adopted.

Sen. KOROMILAS: Mr. President, I move the following amendment.

AMENDMENT

Amend the bill by striking out section 3 and inserting in place thereof the following:

3 Effective Date. This act shall take effect upon passage.
Amendment adopted. Ordered to third reading.

SB 179

limiting the scope of inquiry directed to applicants for state employment and state licensing. Ought to pass. Sen. Tufts for Ways and Means and Administrative Affairs.

Sen. TUFTS: Mr. President, the Committee heard evidence that in regard to the applicant for state employment and state licensing. Previously, both facilities have required an answer to the question of whether the applicant has been arrested and convicted for violations of any law other than minor traffic regulations. Evidence was offered that in applications for employment, they had dropped from the question the item of arrest for any law other than minor traffic regulations and they felt that at the present time, as in the past, a person may have been arrested through some inadvertence or some personal reason and the person was absolutely innocent for the crime and found so, therefore, such a notation should not be made on his record and that conviction was entirely a different matter. All we wish to do is remove the fact that a person has been arrested. We will retain that a person must answer if he has been convicted of any law violation. The Committee recommends passage.

Adopted. Ordered to third reading.

SB 192

relative to the policemen's retirement system. Ought to pass with amendment. Sen. Tufts for Ways and Means and Administrative Affairs.

AMENDMENT

Amend the bill by striking out everything after the enacting clause and inserting in place thereof the following:

1 Policemen's Retirement System. Amend RSA 100-A:5, II (supp) as amended, by striking out said paragraph and inserting in place thereof the following:

II. Group II Members.

(a) Any group II member in service who has completed twenty-five years of creditable service may retire on a service retirement allowance upon written application to the board of trustees setting forth at what time not less than thirty days nor more than ninety days subsequent to the filing thereof, he desires to be retired, notwithstanding that during such period of notification he may have separated from service. Any group II member in service who attains age sixty-five be retired forthwith or on the first day of the next following month.

(b) Upon service retirement, a group II member shall receive a service retirement allowance which shall consist of: (1) A member annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement; and (2) A state annuity which, together with his member annuity, shall be equal to two percent of his average final compensation multiplied by the number of years of his creditable service not in excess of twenty-five years, plus one percent of such compensation multiplied by the number of years of his creditable service in excess of twenty-five years.

2 Payment for Benefits. In order to provide the additional funds necessary to meet the additional benefits for policemen provided by this act, the board of trustees of the New Hampshire retirement system is hereby directed to increase the contribution made by cities and towns and state by an amount equal to one percent of the assessable payroll for said member.

3 Effective Date. This act shall take effect sixty days after its passage.

Sen. TUFTS: Mr. President, SB 192 will change the law so that a police officer may retire at the end of 25 years of service rather than after 65 years of age and 25 years of service. Much evidence was offered solely on the advantage of this measure in

regard to the employment of suitable police officers. We are living in a time when it is to the advantage of all that the most attractive applicants and officers be employed and retained for a period of time. The Committee recommends its passage.

Amendment adopted. Referred to Finance.

HB 310

relative to recoveries by the division of investigation of accounts. Ought to pass. Sen. Tufts for Ways and Means and Administrative Affairs.

Sen. PORTER: Mr. President, HB 310 is a housekeeping bill to clarify the existing law regarding board and care in public institutions. It does not expand the authority — it merely clarifies it. The House offered technical amendments which struck the reference to the tuberculosis commission because this is now the N. H. Home for the Elderly. Other than that, the bill was unamended.

Adopted. Ordered to third reading.

SB 124

relative to the definition of a workday. Ought to pass. Sen. Snell for Ways and Means and Administrative Affairs.

Sen. SNELL: Mr. President, SB 124 was introduced by Sen. Jacobson and I would like to quote from his opening statement. "I was surprised to read that we still have a 10 hour work day on our books. This was established in 1929. I introduced the bill to establish New Hampshire's normal work day as 8 hours. This provision also does not apply to classes of labor for which the law provides day limits." This act will take effect 60 days after passage and I recommend that we vote this as ought to pass.

Sen. PORTER: During the testimony by the expert witness on this bill, Sen. Jacobson, I asked the question, "Would this affect a four-day week, 10 hours per day in any future negotiation or plan of any corporation?" Do you recollect what his answer was?

Sen. SNELL: No, I do not.

Sen. PORTER: I believe his answer was, "No, it would have no affect as far as he could see" and it was confirmed — do you agree?

Sen. SNELL: Correct.

Sen. MORRISSETTE: If you have an employee and he works 10 hours instead of 8, would he have to be paid overtime for the extra 2 hours or would he be paid overtime over the 40 hours?

Sen. SNELL: This bill is just a definition of a work day.

Sen. KOROMILAS: Does the definition cover *all* types of work days or does it limit it to state employees?

Sen. SNELL: It applies to all types of work.

Adopted. Ordered to third reading.

SB 142

allowing full-time classified employees time off for personal business. Ought to pass. Sen. Snell for Ways and Means and Administrative Affairs.

Sen. SNELL: Mr. President, SB 142 was introduced by Sen. Roger Smith. Back in the 1969 session, a similar bill was introduced by Sen. Koromilas, however, at that time, it was defeated in the House. This piece of legislation has been modified and it would give personal time off — three days leave each year with full pay for personal business during the year. After 15 years of service, 5 days leave. This bill also points out that leave time shall not be added on each year so that an individual could actually accumulate 15 or 20 days over a period of time for personal leave. Many individuals in the state have to go to their superiors to ask for days off for personal reasons. Some are given time off while other individuals do not receive this time off.

Adopted. Ordered to third reading.

Sen. S. Smith in the Chair

HB 615

permitting abatement of uncollectable interest and dividend taxes. Ought to pass. Sen. Porter for Ways and Means and Administrative Affairs.

Sen. PORTER: Mr. President, HB 615 provides the tax commission with the authority to abate any tax or portion thereof which, in their judgment, is uncollectable. Most of us hate to let any tax dollars slip through our fingers and I would be first in line to prevent that. In this particular case, they have on the books that approximately \$870 are uncollectable due

to death, moving away and other reasons over the last five years. They do not feel that they can collect this \$870. Broken down, \$289 roughly is taxes and the other \$582 is accrued interest. The tax commission feels it would be more expensive to collect it than to wash it off the books. The Committee heard no one in opposition and urges your favorable support.

Sen. KOROMILAS: Would this also allow the tax commission to abate uncollectable interest and dividend taxes in the future?

Sen. PORTER: If, in the judgment of the tax commission, the bill was uncollectable after rather stringent efforts on their part to collect it, this could also be done.

Sen. KOROMILAS: In your opinion, since only \$870 has been uncollected under the present system, do you think that would change the collecting proceeds by changing the law — would the record of the tax commission be less successful in terms of collecting the amounts owed?

Sen. PORTER: I cannot answer that question. Sen. Tufts might be able to answer that.

(Sen. Bradshaw in the Chair)

Sen. TUFTS: If I understand the question, my answer is that the tax people will make the same effort to initially collect this tax. On the basis of what information they find on this first effort, they will decide whether or not they will carry it further. From the evidence offered, it was on the second and third attempts that the state felt they were not worth setting forth. It was costing them more money to try the second and third attempts so they will dispense with those wasted efforts.

Adopted. Ordered to third reading.

VACATE COMMITTEE

Sen. ENGLISH: Mr. President, I move that the order whereby HB 737, permitting nonprofit colleges, nonprofit trusts and funds to be participating lenders, was referred to the Committee on Education be vacated and that it be referred to the Committee on Executive Departments, Municipal and County Governments. This was not a proper Education bill.

Adopted.

SPECIAL ORDER OF BUSINESS FOR 1:01

HB 666

permitting eighteen year olds to entertain in lounges and dining rooms. (Requested by Sen. Downing)

PARLIAMENTARY INQUIRY

Sen. DOWNING: What is the status of the bill relative to second and third reading?

The CHAIR: HB 666 is on third reading.

Sen. DOWNING: Is the bill open to amendment at this time?

The CHAIR would state that the only time that amendments can be placed on a bill is on second reading.

Sen. DOWNING: Then would a motion be in order to put the bill on second reading?

The CHAIR would state yes.

Sen. DOWNING: Mr. President, I move that HB 666 be placed on second reading. The reason why I would like the bill to be returned to second reading, and I have an amendment here to offer, is that I feel the bill, as it was progressing was an error. First, it prohibited entertainment in establishments which serve beer only. I discussed it with the Liquor Commission and it seemed quite clear to them that unless an establishment served liquor, it would be prohibited from having entertainment according to this bill. Also, the amendment would again exclude the closed-door type of club of which there are 200 in the state. I think this should be considered in light of the fact that we have only 16 investigators. We have 2,000 alcoholic outlets and with only 200 to be considered as closed door, it is very important that this matter go on second reading and that the Senate have an opportunity to consider it.

Sen. SPANOS: Would you please read the amendment before I vote on whether I will vote for it to be placed on second reading?

Sen. Downing read amendment.

Sen. LAMONTAGNE: Mr. President, I agree that there are some changes that have got to be made in reference to espe-

cially those who have beer licenses because I feel they should be entitled to the same privileges as those who serve liquor, but I will oppose part 1 of the amendment which is in reference to the clubs.

Adopted. HB 666 placed on second reading.

Sen. DOWNING: Mr. President, I move the following amendment.

AMENDMENT

Amend the bill by striking out everything after the enacting clause and inserting in place thereof the following:

1 Entertainers. Amend RSA 175 by inserting after section 8-c (supp) the following new section: 175:8-d Minors as Entertainers. Notwithstanding the provisions of RSA 175:8, any person licensed to sell liquor under the provisions of RSA 178:3, 3a, 3c, 4, or holding an on-sale restaurant or hotel permit under the provisions of RSA 181, may not employ minors eighteen years of age or older as entertainers on the premises where said liquor or beverage is sold except by specific approval of the Commission.

2 Effective Date. This act shall take effect upon passage.

Sen. DOWNING: Mr. President, I rise in favor of the amendment and would just like to reiterate that it is very important for the one aspect relevant to clearing up establishments serving only beer that they can also have entertainment. Also, the Liquor Commission would have to give their approval, not of each entertainment appointment, but as they would give a liquor license for a year, they would also give an entertainment license for a year after ascertaining that the facilities were proper and adequate for safeguarding the entertainers as well as handling them. The other provision is that it would prohibit locked door clubs—private clubs. This really isn't a discrimination against the private clubs anymore than a private club's license is itself. The private club enjoys the privacy which a public facility doesn't. The only one who can enter into a private club is a member, by law, or a member of the Liquor Commission because of the license that they hold. Even the local police and the public are not allowed to pass freely into the club, even though I have heard some say it is a practice in many clubs. Legally, it is wrong. The local police cannot pass in and out of the private clubs without a search warrant.

It just seems that we are entering into an area that is new. We are taking those who are still minors and placing them into a situation that may not be in their best interest. I think it is very important we do whatever we can to protect them.

We have 16 liquor investigators. There are over 2,000 liquor outlets for them to keep track of. What is involved here are the 200 private clubs. This would prohibit them from having minors as entertainers. I urge your support of the amendment.

Sen. MORRISSETTE: Sen. Downing, don't you feel that your amendment will tremendously increase their work load rather than decrease it in that they will have 2,000 outlets to worry about instead of 200?

Sen. DOWNING: Senator, they have 2,000 outlets to worry about now. Included in that 2,000 are the 200 private clubs. To give them a further necessity to police these 200 private clubs would appear to be unreasonable at this time—not only not in the best interest of the minors involved, but it would be an unreasonable burden on the department.

Sen. MORRISSETTE: Don't you feel that these 2,000 beer joints have very few orchestras and provide no employment, whereas the 200 clubs such as the American Legion, VFW and Snowshoe Clubs have entertainment.

Sen. DOWNING: We are talking about hotels and restaurants and this type of thing.

Sen. MORRISSETTE: Yes, but you want to open it up for beer.

Sen. DOWNING: We are saying that a public establishment that sells just beer and not liquor (and the Commission makes a distinction between the two) will now be allowed to have entertainment from minors as well as an establishment serving liquor.

Sen. MORRISSETTE: In practice, when they have just beer, they cannot afford orchestras. If we eliminate the private clubs who can afford the entertainment, it will defeat the whole purpose of the bill.

Sen. DOWNING: I don't agree with you, senator. I can see the beer establishments catering to people in their early

twenties who might prefer to drink beer and who would prefer the type of entertainment that might be provided by 18, 19, 20 year olds.

Sen. FERDINANDO: Sen. Downing, is not the intent of the bill to make it accessible for 18 year olds to entertain and thus earn extra money for their education and expenses? Would not the amendment restrict areas as far as the original intent of the bill?

Sen. DOWNING: The amendment would restrict an area which was overlooked by the sponsor and is in the best interest of the minor, but it would open up the majority of areas to them and allow, as you said, the intention of the sponsor's bill.

Sen. LAMONTAGNE: Mr. President, the way the amendment is written at this time, I would have to oppose the amendment and ask the Senate to vote "no" because what it is doing is closing the doors to the clubs throughout the whole State of New Hampshire. I cannot see why these clubs cannot be allowed the same treatment as the hotels and motels. If this amendment is defeated, I will introduce another amendment to correct the problems caused by this present amendment and the areas which were left out by the sponsor.

I don't want to exclude those establishments who have a beer permit only because they should have the same privileges as those who sell liquor. I do not want to see these private clubs left out. They are always run under supervision and we won't need any additional inspectors because these same inspectors go around to the clubs anyway. This is not a problem and I don't see why we should restrict the clubs when there are many of these establishments who would hire these young entertainers. We have a shortage of entertainers in our state and this would help the people whom you have already voted to become a voter of our state. Why should we restrict them and lose faith in them.

I hope that you will vote this amendment down so that another amendment can be introduced to straighten out the matter.

Sen. KOROMILAS: Is it not true, Sen. Lamontagne, that entertainers over 21 can appear in clubs at the present time?

Sen. LAMONTAGNE: Yes.

Sen. KOROMILAS: If we allow 18 year olds to entertain in hotels, open areas outside of clubs, wouldn't that allow some surplus to go into the private clubs? In other words, the 18 year olds could gravitate towards the open places and those who are over 21 would be going into the clubs. That would solve your problem—wouldn't it?

Sen. LAMONTAGNE: It still won't help employment for the 18 year olds.

Sen. SNELL: Would you allow law enforcement officers to travel from one establishment to another as far as those that are closed at the present time?

Sen. LAMONTAGNE: Right now, any officer can go into any of these clubs at any time and no one is going to refuse them—they never did.

Sen. DOWNING: Senator, you seem to feel that this amendment would close the doors of the clubs. Aren't the doors of the clubs closed now?

Sen. LAMONTAGNE: Sir, it would close the doors to the 18 year olds to be employed by the clubs.

Sen. DOWNING: I am glad you made that clear. You speak with a tone of authority on the unnecessary need for additional help by the Liquor Commission to police these clubs if 18 year olds were permitted to entertain in them. Are you aware that the Liquor Commission has stated that they *would* need more help. That it would be a very difficult problem to police it and they are very concerned with it. Are you aware of that?

Sen. LAMONTAGNE: I personally feel that they will *not* need any additional help to take over and that they can do it with the amount of inspectors that they now have because I cannot see any more work to be done than they are now supposed to be doing.

Sen. DOWNING: You have said that they have done a good job. They have said to me that they cannot do that job properly and they are very concerned if this bill were to pass without this amendment—are you aware of that?

Sen. LAMONTAGNE: Well, I have been around for a long time and I have been in clubs for a long time and know

the operation. I cannot see why any changes will have to be made.

Sen. TUFTS: It seems very incongruous to me to get up and propose that minors be allowed in these dens of iniquity, but I wish to speak as the Chairman of Ways and Means to reinforce the evidence which was presented to the Committee that, indeed, the law enforcement people are prohibited from walking freely into these private establishments. The liquor inspectors are only allowed because the clubs are compelled to allow them as long as their license exists. The evidence was that local police officers, deputy sheriffs and others could not enter at will.

The Commissioner also informed us that they expected problems in this area if we allowed these younger entertainers. They feel that under-aged people will be attracted as patrons to these establishments. They also feel that additional supervision and surveillance will be necessary because this music is attractive to these people and that seemed to make sense to us.

Sen. MORRISSETTE: Sen. Tufts, you seem to have a pretty bad impression of our various clubs such as our Elks and others?

Sen. TUFTS: No, I do not have such notion.

Sen. MORRISSETTE: The whole problem here with this bill is one man who wants to exert his authority. Why didn't he come to the public hearing. The only thing we knew after we passed the bill was that he sent in this amendment and we had a one-minute Executive Session in the hallway. Why didn't he come to the hearing?

Sen. TUFTS: I have no idea to whom you are referring, but the man who appeared before us was a Mr. Tasse, who is in charge of the enforcement. I don't believe that we asked him the question of why he hadn't been present.

Sen. LAMONTAGNE: Sen. Downing, are you aware that these 18 year olds who are going to go into clubs, hotels or motels, are not going to drink because they are under 21?

Sen. DOWNING: I am hopeful of it.

Sen. S. SMITH: Unlike Sen. Tufts, I am a man of moderation and I rise in support of the amendment as offered by Sen. Downing. In the first section of the amendment relative to

opening this to establishments which sell beer, I have frequented places where only beer is sold and dancing is of the best. I think that these establishments can be of the finest.

In regards to the second portion of the amendment, I support this also for, having spoken with people who have knowledge of this, I believe that it is a problem for police officers other than liquor inspectors to enter the premises of a private club. A regular police officer, it is my understanding, can only enter the club when and if he is of the belief that there is a major violation of law taking place and then, only with a warrant and in the accompaniment of a liquor inspector. As has been pointed out, there are only 16 inspectors who are supervising approximately 2,000 establishments. I think that the solution to this problem can be handled through other legislation. I think that the problem (and I am not a lawyer) of having minors in this position creates additional problems of enforcement. My suggestion would be that we pass this amendment to the bill and look to the bill which may be coming before us shortly relative to the majorityship of those 18 years and above. If the majorityship is granted to 18 year olds, then there will not be the problem which this bill has seemed to create.

Sen. LEONARD: Mr. President, in my travels around the state, especially in the Nashua area, I was always impressed with the control of conduct. I have been to most of the private clubs in Nashua and what impressed me more than anything else was that the people at the clubs, when they had entertainment, behaved in a respectable manner, even more so than some of the clubs such as the country clubs and hotels. But, I know for sure that they certainly are way above the average place that sells beer. I don't like the idea of exempting private clubs from this amendment. I think that when you go to a private club on a Saturday night, at least in Manchester and Nashua and the ones which I am familiar with, you find that when there is entertainment, everyone has a coat and tie and they have people in charge who make sure that people don't get out of line. I think that they do a good job and I am proud of the clubs.

Sen. FERDINANDO: Mr. President, I move the previous question.

Adopted.

Question on adoption of floor amendment offered by Sen. Downing.

Roll Call requested by Sen. Lamontagne. Seconded by Sen. Morrissette.

PARLIAMENTARY INQUIRY

Sen. LAMONTAGNE: Mr. President, if this amendment is defeated, may other amendments be introduced?

The CHAIR would state that if you are in favor of the adoption of the amendment as offered by Sen. Downing, you will answer "yes". If you are opposed to the adoption of the amendment, you will vote "no".

Ayes: Sens. S. Smith, Snell, Townsend, Gardner, Jacobson, Spanos, English, Porter, Provost, Brown, Koromilas, Downing, Tufts, Foley.

Nays: Sens. Lamontagne, Leonard, Ferdinando, Morrissette, McCarthy.

Result: 14 Ayes, 5 Nays.
Amendment adopted.

Question on ordering HB 666 to a third reading.
Adopted. Ordered to third reading.

FURTHER MESSAGE FROM THE HOUSE REQUEST FOR COMMITTEE OF CONFERENCE

On motion from Sen. Ferdinando, the Senate voted to accede to House request for a Committee of Conference on:

HB 181, to provide for the regulation of title insurance.

The Speaker appointed as members of said Committee on the part of the House, Rep. Bigelow, Woodward and Tremblay.

The President appointed as conferees on the part of the Senate, Sens. Ferdinando and Leonard.

Sen. Spanos moved that the Senate adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until Monday at 1 o'clock in honor of Maj. Ernest Servetus U. S. Air Force, late of Dover and his entire crew who perished on an NATO mission in Spain last Wednesday.
Adopted.

LATE SESSION

Third reading and final passage

SB 280, relative to the area school contract between the Rochester School District and the Wakefield School District. (Passed under Suspension)

HB 189, authorizing the General Court to provide for the time and mode for submitting constitutional amendments proposed by it to the voters. (Passed under Suspension)

HB 666, permitting eighteen year olds to entertain in lounges and dining rooms.

Sen. Downing moved reconsideration.
Motion lost.

SB 201, relative to the state apprenticeship council.

HB 540, amending the charter of the union school district of Keene to provide that the treasurer be appointed by the school board.

HB 544, to provide for review of area school plan and withdrawal after the third anniversary.

HB 872, to amend the charter of New England College.

SB 134, relative to the construction industry.

SB 135, to license private detectives and private detective agencies.

HB 464, relative to participation in the work incentive program.

HB 564, relative to increasing the membership of the advisory commission on health and welfare.

HB 822, relative to the enforcement of regulations of the Director, Division of Welfare.

HB 652, to exclude animals from restaurants and stores that sell food.

HB 690, providing a closed season for salt water smelt.

HB 689, providing that bow nets and dip nets may be used in certain rivers.

HB 703, providing that no person shall furnish to another person a license issued to himself.

SB 179, limiting the scope of inquiry directed to applicants for state employment and state licensing.

HB 310, relative to recoveries by the division of investigation of accounts.

SB 124, relative to the definition of a workday.

SB 142, allowing full-time classified employees time off for personal business.

HB 615, permitting abatement of uncollectible interest and dividend taxes.

Adopted.

Sen. Townsend moved that the Senate adjourn at 4:28 o'clock.

Adopted.

Monday

7Jun71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

O GOD, who hast created all men to dwell on the face of the earth in peace and harmony, we pray for all who suffer injustice from their fellow men and for all who inflict injustice. Help us to fight injustice through honest debate and truthful legislation. Enable us to be Your instruments of service, correcting injustice wherever and whenever we are confronted by it. Keep us safe from error as we strive to do our best for those we represent and our Granite State. Amen.

Pledge of Allegiance was led by Sen. Poulsen.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 284, providing for the establishment of a Court Accreditation Commission. (Nixon of Dist. 9 — To Judiciary.)

SB 285, authorizing the Human Rights Commission to accept public and private grants. (Nixon of Dist. 9 — To Executive Departments, Municipal and County Governments.)

SB 286, providing for the waiver of court costs and fees in certain cases. (Nixon of Dist. 9 — To Judiciary.)

SB 287, providing for a unified court system for New Hampshire. (Nixon of Dist. 9 — To Judiciary.)

SB 288, authorizing the Department of Welfare to make rental payments directly to the landlords of welfare recipients in certain cases. (Morrissette of Dist. 16 — To Public Health, Welfare and State Institutions.)

SB 289, relative to timber cutting adjacent to public waters. (Poulsen of Dist. 2 — To Resources and Environmental Control.)

SB 290, to permit the registration of voters as independents and to provide for the voting of persons so registered in primary elections. (Nixon of Dist. 9 — To Executive Departments, Municipal and County Governments.)

SB 291, repealing the bounty on bobcats. (Bradshaw of Dist. 10 — To Recreation and Development.)

SB 292, relative to abandoned and junk motor vehicles. (Porter of Dist. 12 — To Public Works and Transportation.)

SB 293, to provide for the citizen's right to sue to protect against damage to the environment. (Porter of Dist. 12 — To Judiciary.)

SB 294, relative to certain duties of the Superior Court. (Nixon of Dist. 9 — To Judiciary.)

SB 295, providing for the appointment of acting assistant county attorneys so as to permit speedier disposition of criminal cases. (Nixon of Dist. 9 — To Judiciary.)

SB 296, to permit use of streets for conducting street fairs, including retail selling on temporary basis. (Ferdinando of Dist. 14 — To Public Works and Transportation.)

SB 297, requiring certain markings and equipment on bicycles. (Foley of Dist. 24 — To Public Works and Transportation.)

SB 298, relative to qualifications, licensing and general requirements for insurance agents, brokers, surplus line brokers, consultants and adjusters. (McCarthy of Dist. 17 — To Banks, Insurance and Claims.)

SB 299, to provide the Insurance Department with authority to regulate life and accident health policy forms and rates. (McCarthy of Dist. 17 — To Banks, Insurance & Claims.)

SB 300, relative to state indebtedness. (Jacobson of Dist. 7 — To Finance.)

SB 301, relative to the membership and duties of the Council for Teacher Education. (Jacobson of Dist. 7 — To Education.)

SB 302, prohibiting discrimination because of age or sex. (Nixon of Dist. 9 — To Judiciary.)

S B303, relating to the jurisdiction of the Supreme Court. (Nixon of Dist. 9 — To Judiciary.)

SB 304, establishing a state government internship program. (Porter of Dist. 12 — To Education.)

SB 305, establishing a miscellaneous tax division within the Tax Commission. (Smith of Dist. 3 — To Executive Departments, Municipal and County Governments.)

SB 306, relative to institutional collections. (Smith of Dist. 3 — To Public Health, Welfare and State Institutions.)

SB 307, establishing a division of real and personal property appraisals within the Tax Commission. (Smith of Dist. 3 — To Executive Departments, Municipal and County Governments.)

SB 308, relative to the workweek and overtime pay for the state police. (Smith of Dist. 3 — To Executive Departments, Municipal and County Governments.)

SJR 25, providing that a referendum to determine the sense of the voters on the Vietnam War be placed on the presidential preference primary ballot. (Spanos of Dist. 8; McCarthy

of Dist. 17; Foley of Dist. 24; Snell of Dist. 4; Nixon of Dist. 9; Townsend of Dist. 5; Morrissette of Dist. 16; Provost of Dist. 18; Jacobson of Dist. 7 — To Judiciary.)

SJR 26, providing for a special legislative committee to study the methods by which a public defender system can be implemented in the state. (Jacobson of Dist. 7 — To Judiciary.)

SJR 27, providing for a special legislative committee to study the feasibility of establishing a non-adversary juvenile and domestic relations court in the state. (Jacobson of Dist. 7 — To Judiciary.)

SJR 28, establishing a committee to study the feasibility of off track betting and making an appropriation therefor. (Spanos of Dist. 8 — Ways and Means and Administrative Affairs.)

SJR 29, relative to reimbursement to the Wentworth School District for fire damage to the Wentworth elementary school. (Townsend of Dist. 5 — To Finance.)

SJR 30, in favor of William J. O'Connor. (Foley of Dist. 24 — To Finance.)

SJR 31, in favor of Thayer Wade. (Foley of Dist. 24 — To Finance.)

SJR 32, extending to June 30, 1973 the lapsing of the 1969 appropriation to provide state flags to servicemen. (Smith of Dist. 3 — To Finance.)

CACR 34, Relating to: Appropriations for State Agencies. Providing that: A Two-thirds Vote of Each House Shall be Required to Approve a Biennial Appropriation for any Agency which Exceeds by More than Ten Percent the Appropriation for the Preceding Biennium. (Nixon of Dist. 9 — To Finance.)

HOUSE MESSAGES INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 587, establishing limits on the season for taking wild deer. (Recreation and Development)

HB 651, clarifying tax exemptions on real estate owned by governmental bodies. (Ways and Means and Administrative Affairs)

HB 696, amending the business profits tax to clarify the provision for the taxation of affiliated corporations. (Ways and Means and Administrative Affairs)

HB 791, granting a tax exemption to persons who have lived with their spouse as man and wife for at least five years when either person is seventy or over. (Ways and Means and Administrative Affairs)

HB 852, defining charitable trusts and providing for the filing of instruments and reports relative to said trusts. (Judiciary)

HB 865, relative to the articles of agreement of charitable corporations. (Judiciary)

HB 867, relative to statutory provisions in charters of charitable corporations created by legislative act. (Judiciary)

HB 868, relative to the administration of charitable trusts. (Judiciary)

HB 926, to amend the charter of the City of Rochester relative to registration for voting and absentee voting. (Executive Departments, Municipal and County Governments)

HB 960, relative to payment of monies to elected and appointed municipal officials. (Executive Departments, Municipal and County Governments)

HB 962, prohibiting the possession of loaded rifles and shotguns in boats and other craft. (Recreation and Development)

HJR 50, in favor of Richard Bradley. (Banks, Insurance and Claims)

REQUEST FOR COMMITTEE OF CONFERENCE

On motion from Sen. Jacobson, the Senate voted to accede to House request for a Committee of Conference on:

HB 189, authorizing the General Court to provide for the time and mode for submitting constitutional amendments proposed by it to the voters.

The Speaker appointed as members of said Committee on the part of the House, Reps. R. Chase, Bowles and Bednar.

The President appointed as conferees on the part of the Senate, Sens. Jacobson and Leonard.

ENROLLED BILLS REPORT

HB 207, relative to the control of radiation.

HB 648, enacting an insurance holding company act.

HB 702, relative to qualification for members of a school board.

SB 101, providing for the recognition of "middle schools."

Sen. Ferdinando

For The Committee

COMMITTEE REPORTS

SB 154

to create an education aid fund to enable citizens of the state to attend private institutions of higher education. Inexpedient to legislate. Sen. Jacobson for Education.

Sen. JACOBSON: Mr. President, I asked the Committee on Education to report this bill as "inexpedient to legislate" because of the fact that we are now on a tight budget and that this bill calls for a \$1 million appropriation. However, I am very strong in the principle of it and I would like to take just a few moments of the Senate's time to speak to the point.

It is my candid view that unless we develop a cooperative relationship between private institutions of higher education and public institutions of higher education that private institutions which now have very large capital investments and who can serve a greater number of people than they now presently do, will falter and the state will then be forced to take over, in totality, programs of higher education. The result would be, in my view, a failure in terms of our social system. We have accepted the principle in the area of business and I am hopeful that we will also accept this principle in the field of education. I am also hopeful, as I have indicated the other day, that if SB 79 passes the House, that that, too, may become a subject for I believe that if we establish a cooperative relationship between private and public institutions of higher education, that it will

be a benefit to everyone, not only sociologically but financially. But, because of the budget situation, it seemed to me impossible that we could do anything in that area at this time. Therefore, not because of the principle, but because of the expediency of the budget matter, I ask that it be made "inexpedient to legislate."

Resolution adopted.

SB 181

restricting jurisdiction of state police in towns of less than ten thousand population. Inexpedient to legislate. Sen. S. Smith for Executive.

Sen. S. SMITH: Mr. President, the Committee listened to much testimony in regards to SB 181. I think that the conclusion reached by the Committee was that the existing law seems to work satisfactorily and that by increasing the size of the town to 10,000 where state police may come in without any permission from the local authorities, this might create more problems than it resolves. It could very easily create the problem of state police being involved in cases without local policemen knowing it, with local police getting word that the state police were in the town and then have to go out and find out who these people are who are cruising, trying to check out on some problem with regards to drugs and find that it is the state police rather than somebody who is trying to case a house for a robbery.

Throughout the hearing, there was no evidence as far as the Committee was concerned, that the existing relationship between the state police and the local police, and Sheriff's Department, was being hurt by this existing law and that in the field, there was cooperation throughout the law enforcement agencies. I hope that the Senate will go along with the Committee.

Sen. POULSEN: Mr. President, I also rise in support of this Committee Report. Most small towns, 3,000 and under, welcome state police, but towns of over 3,000 ordinarily have their own chief and the intrusion of state police doesn't help things. If it is needed, it can always be done by radio communication.

Sen. PORTER: Mr. President, I move that the words, "ought to pass" be substituted for the Committee Report, "inexpedient to legislate."

My amendment to SB 181 is as follows: the restriction on the State Police is kept at three thousand but the authority to 'engage in the investigation of organized crime or illegal narcotics' is provided.

This amendment would satisfy the purposes I had in mind when I introduced this bill, and that is—a more coordinated attack on the illegal narcotics traffic in New Hampshire.

I did not enter this bill to initiate a range war among the law enforcement agencies in the state. On the contrary, I wish to increase cooperative action. I believe, from conversations with several police chiefs, that my amendments *remove* the opposition presented at the hearing, yet retain *my* goal in the legislation. But, you may ask—"do we have a "drug problem" in New Hampshire?"

To illustrate the rise in illegal drugs, let me read from a report of some drugs seized during 1970 by only the State Police:

Drugs seized	1969	1970
Marijuana	17.8 lbs.	412 lbs.
Hashish	148 grams	1552 grams
LSD	8 tabs.	995 tabs.
Dollar Value	\$60,941	\$154,200

These are rather startling statistics!

Just last week in the *Manchester Union Leader*, an A. P. article labeled Boston as an 'epidemic area' in the use of heroin! It was stated that "one in every 65 residents of Boston is addicted to heroin." The article further stated that "most addicts also peddle the drug." Gentlemen, let us ensure that our State Police are not restricted in their endeavors to fight this problem. Let us *not wait* until this "problem," now an hour away, is 30 minutes away. No other State Police force in New England has any such restriction!

I am actually rising here to express a frustration within our system of government. On the one hand, we concern ourselves with progressive and sound operation of the State of New Hampshire. We try to be responsive to the needs of its citizens, yet we are shirking some of our responsibilities.

I address the insidious danger to our human resources resulting from the increasing use of illegal drugs and narcotics.

The cause of the increase is not easily definable, and we continually search for clues to provide solutions. The effects are evident and can receive some of our attention.

It is extremely difficult to assess the actual dangers of the illegal drug traffic our young people are exposed to in their everyday life.

We hear rumors, observe increased arrests reported by the press, listen to concerned young people and parents, but the *actual*, the real world situation may be worse or not as bad as some believe. Obviously, the situation in regard to drug usage has changed drastically in just the last five years. Rumors, not unfounded, would have you believe the *majority* of the youngsters of even the high school age have experimented with some form of illegal narcotic.

Parents, educators, and youngsters are concerned. They look to their elected officials, ladies and gentlemen, for some guidance and help. In the political campaigns, the illegal drug traffic becomes an issue—this, at least, provides political ventilation of a problem.

My concern, as a parent and an elected officeholder, is that the State of New Hampshire is not proceeding to reach a solution fast enough. I recognize the magnitude of the problem and further *no one knows the total solution*.

We are concerned, primarily, with a three-prong attack on the problem: education, enforcement, and rehabilitation. (We look toward the causes and the effects.)

I believe the thrust of the education sector to be the long range solution to create the balanced mental environment required so the need for escape through drug use is removed. In New Hampshire we are blessed with high values of life and solid traditions which provides a sound initial working base.

The enforcement aspects include the police role and the judicial courts. Our state, country, and local police collaborating to a high degree, are doing a commendable job. Recent legislation has provided improved working tools so the problem can be attacked. However, many of the citizens view the court handling of drug cases as inadequate, and feel the courts are too lenient.

Our rehabilitation program at its present funding in New Hampshire is inadequate. I ask you, have you talked to any heroin addicts lately who have sought help? Have you tried to help a constituent whose youngster was on a bad trip? Have you listened to a parent whose child faces court action, possible incarceration, and needs psychiatric aid? Have you spent a day at the N. H. State Hospital with a youthful constituent needing help to overcome a drug problem? Can we abandon this segment who have defected from our society, or can we somehow imbue them with the credentials needed to face the not always easy day-to-day realities of life? Our decision has to be—we shall try.

So, with some criticism should come viable proposals to effect solutions.

In education—we must promote more intense programs for all students and their parents. We should promote special awareness programs for our teachers, police officers, and officers of the courts. We must explore other possibilities as use of radio, television, and billboards.

In enforcement—we must promote more active pursuit of the “dealer,”—the “for profit” outlaw. We must promote increased cooperative use of state, local, and county police, and fund these programs. We should promote a further upgrading of the professionalism of the already good state police narcotics squad and provide additional help, training, laboratories, detection equipment. We must:

- act favorably on Senate Bill 181 as amended.
- insist on federally supported research into improved detection and measurement systems.
- derive better laws to avoid loss of prosecution due to technicalities.
- establish a crisis contingency plan.

In rehabilitation—we need a working program for rehabilitation of addicts. Voluntary *or* compulsory commitments to our N. H. State Hospital to effect a “cure” are not providing a solution. Community mental health centers responsive to *all* the needs of the citizens, including alcohol *and* drug abuse, must be expanded, staffed, and funded to do the job. We should consider a *state-wide* telephone “hot line” to be on a 24-hour—

toll-free basis to respond to calls for assistance. We must cease a fragmented approach.

This expression of frustration, though lengthy, ladies and gentlemen of this honorable Senate, directly affects every citizen of the state.

While we are "out hunting bear," our children are being bitten by a snake.

I urge your favorable action on the proposed amendment. Thank you.

Sen. KOROMILAS: You gave us some very valuable information as to the amount of marijuana and hashish that is picked up and seized by the state police. Could you tell us some figures with respect to the towns as to how much the increase has been in seizure?

Sen. PORTER: I do not have those figures.

Sen. SPANOS: Your bill calls for allowing the state police jurisdiction in towns under 3,000 to combat crime and drug addiction. Do you feel that you are going to solve the problem with state police without limiting it only to the towns that are 3,000 and under. Isn't it a fact that you find more in the larger cities?

Sen. PORTER: My bill will provide the authority to the state police to operate in the state in the areas of organized crime and illegal narcotics where they need them to apply their efforts. I think it is some small part towards effecting a solution to this problem.

Sen. JACOBSON: I believe you mentioned that in a majority of the states, the state police have greater power than they have in this state—is that correct?

Sen. PORTER: I mentioned that in all of New England, there is no such restriction on our state police.

Sen. JACOBSON: In these other five states which has this greater power, is there a minimization of the two areas which you speak of—organized crime and narcotic distribution?

Sen. PORTER: I do not know the answer to that.

Sen. JACOBSON: I understood you quoted some figures from Boston and Massachusetts is one of those states which has that greater power?

Sen. PORTER: I quoted an A. P. article from the *Manchester Union Leader* last week which indicated that one out of every 65 residents was addicted to heroin.

Sen. JACOBSON: How do you evaluate this in terms of the fact that they have this serious problem in Boston with the fact that the state police have greater power in this area, remembering also that there is a considerable establishment of organized crime in the same area?

Sen. PORTER: I can't answer why they are not as effective as they probably should be.

Sen. MORRISSETTE: Mr. President, I rise in support of the amendment as proposed by Sen. Porter. I feel that the state police should have the responsibility and opportunity of fighting organized crime. I think this would help out towns.

Sen. KOROMILAS: Is there anything in the statutes today that prohibits state police from coming into a town for drug or organized crime investigation if the police chief invites them?

Sen. MORRISSETTE: I don't know what the law is relative to that.

Sen. S. SMITH: Mr. President, I rise in opposition to the pending motion. I am highly sympathetic with the views expressed by Sen. Porter. We are all deeply concerned with the problem of drugs and how we can curtail them, both through education, treatment and enforcement. But, I submit that this bill, rather than helping in the coordination of law enforcement activities in regards to drugs and organized crime, will not help solve the problem. I think the law which we have on the books has worked well. I know of no instance, particularly in my area of the state, where there has not been full cooperation between all levels of law enforcement. There are jealousies between the areas of law enforcement, but I think the passage of this legislation would bring greater problems than would be solved. I know that local police in my area are deeply concerned and have worked hard for the curtailment of drugs and usage and many arrests have been made. Though this bill seems to bring about greater cooperation, I believe, in effect, it creates greater disharmony.

Sen. SPANOS: Sen. Smith, do you happen to know the reason why the Legislature gave to the state police jurisdiction over towns under 3,000?

Sen. S. SMITH: I am not positive, but I would certainly guess that the reason for this was that smaller towns do not have full-time or adequate police enforcement, but that towns of 3,000 or above generally do have full-time police departments.

Sen. JACOBSON: Mr. President, I reluctantly rise to oppose the pending motion. I do it for several reasons. Firstly, I think the testimony offered did not conclusively demonstrate the need for this legislation. Secondly, though I agree wholeheartedly with Sen. Porter with respect to education and its need in order to combat the drug problem, that is not the subject of this legislation. Thirdly, I think that the issue at stake is not the need for statutory legislation, but the need to work out among the several levels of law enforcement some procedural arrangement. There was some indication that, in general, a procedural arrangement is working and is working quite well.

I think we all understand that there are times of personality conflicts where the issue could never be resolved by statutory legislation, but by getting people together in some kind of compromise relationship in order to iron out the difficulties that may exist between individuals. It is my view that there is the direction of effort that should be made in working out the procedures between the various levels of law enforcement.

Finally, there is no evidence offered that even if you do expand this power, that you solve the problem because, in many other states where the state police authority is greater, the problem is still of great magnitude in both the areas of organized crime and drug addiction.

Question on substituting "ought to pass" for "inexpedient to legislate."

Division taken: Result: 11 Yeas, 9 Nays.

Motion carried.

Sen. PORTER: Mr. President, I move the following amendment.

(Clerk read amendment.)

Sen. PORTER: Mr. President, the amendment in this bill changes the word "10,000" back to the current law so the only difference between the present law and the present amendment is that it adds in, "or when engaged in investigation of organized crime or illegal narcotics" as I discussed in my previous testimony.

Sen. SPANOS: Sen. Porter, does the effect of your amendment say that in all matters involving organized crime and illegal use of drugs, that the state police may go into *any* community in the state?

Sen. PORTER: Yes, sir.

Sen. SPANOS: So it is not limited to 3,000 or 10,000—now this will give them the right to go into any community that they see fit?

Sen. PORTER: It will give them the right to conduct a coordinated attack on these problems in the state.

Sen. SPANOS: I move that further consideration of SB 181 be indefinitely postponed.

I did not intend to speak on this bill having had my say at the Committee hearing and having been sharply criticized for said testimony by a top official of the State (not the distinguished Senator from the 12th District).

But since the bill is close to passage, I must arise and speak against the bill.

I agree with Sen. Jacobson that rather than improving law enforcement, it will hurt it because the cooperation which exists today will be non-existent and these clashes between state police, local and county officials will minimize the effectiveness of law enforcement. I believe that there will be a "range war" between such officials—after all we are dealing with personalities.

Also, I should point out that cooperation between state and local county officials has been very high. One state police official stated at the hearing that in 15 years of law enforcement only once has he had difficulties. This should indicate no demonstrative need for Sen. Porter's bill or the amendment.

Also, as I said at the hearing, this bill pre-supposes a sanctity or divinity in behalf of the state police. I cannot share this same feeling, although my respect is great for them. But I have served as a defense attorney, as a special judge and have been closely associated with prosecution for 6 years and the state police are only as good as the men who make up the force. It is not sacrosanct.

Finally, voting against this bill is not a vote against progress and viewing the whole panorama, I think that a vote to defeat

this bill is a progressive move inasmuch as it perpetuates a law enforcement relationship unequalled in this country.

Sen. JACOBSON: Sen. Porter, in your research, did you make any judgment with respect to the federal involvement in these two areas?

Sen. PORTER: I did not actually research what the federal involvement was except that the federal officers have the authorization to go anywhere in the conduct of these crimes.

Sen. JACOBSON: In other words, at the present time, federal authorities, once it becomes an interstate matter, have the authority to enter into both of these areas—organized crime and narcotic distribution?

Sen. PORTER: I understand that is true.

Sen. JACOBSON: You have universalized this with respect to the entire state. Have you evaluated how a judgment is to be made with respect to the entrance into every city and town in New Hampshire—what is the program for justifying the entrance into a community?

Sen. PORTER: Normally, I would assume that when any police officer is conducting an investigation, he knows the general area of his investigation and would make a judgment factor on that.

Sen. JACOBSON: Assume then that in the Town of Amherst, the Chief of Police notices an unmarked car and wonders why it is where it is. He proceeds to ask a question and finds that it is a state police officer who says that he is here on the investigation of, let's say, either narcotics or organized crime. Does he need to document this or does he need only to make the statement?

Sen. PORTER: I would think that once they have identified themselves, the Chief of Police would be quite happy with it.

Sen. BROWN: Mr. President, I rise in support of the present motion. Over the weekend in relation to SB 181, I spoke to a detective in the state police who is involved in the drug problem throughout the state. I also spoke to a couple of chiefs of police in my district and the high sheriff and a few of his deputies. All three of them said they had excellent relation-

ships with the three different departments and that they could see no gain by passing SB 181.

Sen. POULSEN: Mr. President, I also rise in support of Sen. Spanos' motion. I think that anything done to jeopardize the balance that now exists between the branches of the police would be detrimental.

Question on indefinite postponement.

Roll call requested by Sen. Gardner, seconded by Sen. Koromilas.

Yeas: Sens. Lamontagne, Poulsen, S. Smith, Gardner, Jacobson, Spanos, McCarthy, Brown, Marcotte, Koromilas, Tufts, Foley.

Nays: Snell, Townsend, Nixon, English, Porter, Leonard, Ferdinando, Morrissette, Provost, Downing.

Result: 12 Yeas, 10 Nays.

Motion carried. SB 181 indefinitely postponed.

Sen. Gardner moved reconsideration. Motion lost.

SB 209

exempting county farms from property taxes. Inexpedient to legislate. Sen. Leonard for Executive.

Sen. LEONARD: Mr. President, under the present law, the building of the county farms which primarily earned income in the old days are taxable by real estate tax. This bill exempts county farms. The Committee felt that this would be too much of a blow to the towns that happen to be where these county farms are located. If you exempted the property, you would decrease their income too much. Therefore, we voted the bill to be inexpedient, which means that the county farm buildings will be taxable, as they have been up to the present time.

Sen. TUFTS: It is with reluctance that Sen. Tufts is present at the demise of one of his bills, but apparently the evidence indicated that there was a difference in our small state between the more populous counties and the less populous counties. In the County of Rockingham in which I reside, there are not many services provided by the town to the county farm. It is true that the farm is in a small town and it would be an economic loss and the town would suffer.

Resolution adopted.

SB 214

relative to filing city charters and amendments thereto, with the Secretary of State. Ought to pass. Sen. Leonard for Executive.

Sen. LEONARD: Mr. President, under the present statutes, if any city wanted to amend their charter and they found a provision in the charter of another city that was already approved by the Legislature, they could amend it by referendum. I had charter amendments for Nashua and when I discussed this with Legislative Services, it was pointed out that there is no recording of the present city charters so no one can find out whether a provision of a charter has been approved by the Legislature.

At the suggestion of Legislative Services, I submitted this bill so that all cities in the state will have to record their charter with the Secretary of State so that it can be referred to by other cities and by Legislative Services when they have these matters to consider.

Adopted. Ordered to third reading.

SB 221

amending the charter of the City of Nashua to provide for the appointment of library trustees by the mayor subject to approval by the Board of Aldermen. Inexpedient to legislate. Sen. Leonard for Executive.

Sen. LEONARD: Mr. President, I move that SB 221 be made a Special Order of Business for Wednesday, June 9, at 1:01. Just prior to the session, Sen. Downing came to me about this bill and we didn't have time to discuss all the phases of it.

Adopted. SB 221 made a Special Order.

SB 223

authorizing towns to appropriate funds to employ counsel for the prosecution of misdemeanors. Ought to pass. Sen. S. Smith for Executive.

Sen. S. SMITH: Mr. President, SB 223 allows towns to appropriate funds to employ counsel for the prosecution of misdemeanors. This is a permissive piece of legislation. It is not unlike other bills which we have had this session allowing towns to appropriate funds for the Fourth of July—it does not make it mandatory. It does permit, however, towns to hire counsel.

The reason behind the bill is that often today, local police may be not adequately prepared to prosecute a case or have some defense attorney move various legal maneuvers and it is felt that better prosecution would be allowed if this bill were passed.

Adopted. Ordered to third reading.

SB 226

providing that the election recount fee be waived in certain cases. Ought to pass. Sen. Leonard for Executive.

Sen. LEONARD: Mr. President, the Committee heard this bill and decided it was a good bill. It provides that in certain cases where a candidate desires a recount, he does not have to pay the fee. Those cases are: (1) when the vote of the two candidates is different than the total vote (2) when there are irregularities noted at the counting of ballots or at the election process and two witnesses sign affidavits as to the irregularities. (3) when, in the discretion of the Secretary of State, he deems discrepancies have occurred. There will be no recount fee under those conditions.

Adopted. Ordered to third reading.

SB 251

requiring zoning ordinance changes to be voted upon by printed ballots. Ought to pass. Sen. Leonard for Executive.

Sen. LEONARD: Mr. President, under the present law, if the voters of a town desire to cancel out the zoning law, they do it by voice vote. It is the feeling of the witnesses who testified that this was not a good procedure. This bill requires that if there is a vote to terminate the zoning laws in a town, it would have to be done by ballot.

Sen. TOWNSEND: You referred to the repeal of a zoning law. Would this same provision have to do with amendments to proposed changes in the law or would it be restricted to the repeal of the zoning law?

Sen. LEONARD: Just to repeal. Amendments would be under the same procedure as we have now.

Adopted. Ordered to third reading.

SB 259

requiring competitive bidding on all purchases by Hillsborough County. Ought to pass. Sen. Ferdinando for Executive.

Sen. FERDINANDO: Mr. President, SB 259 is similar to a

bill which the Senate passed two years ago, only to have the House kill it. The only change to be made this time is to limit the bill to Hillsborough County, hoping that we might get support from the counties on the other side. The reason for this is that the existing statutes allow the waiving of the bidding process at the discretion of the county commissioners. This bill would put a stop to this waiving process. It would require competitive bidding without waiving the bidding. If there are any abuses, they will be corrected. If there aren't any abuses, then there is no need to be concerned with what happens to this legislation.

Adopted. Ordered to third reading.

SB 160

requiring the use of the non-partisan ballot for the election of a budget committee. Majority: Ought to pass, Sen. Jacobson for Executive. Minority: Inexpedient to legislate. Sen. S. Smith for Executive.

Sen. JACOBSON: Mr. President, as you can see, this is a divided report. What this bill does is a very simple thing. It removes the members of the budget committee in those communities when they are elected rather than appointed. It removed those members from the budget committee from a partisan ballot so that all elections for municipal budget committee in New Hampshire will be by non-partisan vote. This is not as radical as it seems since the great majority of towns already are non-partisan throughout, but in those towns that still maintain a partisan ballot, it would make the election to the budget committee a non-partisan matter.

The belief of the majority was that in the question of the budget, this is an item that crosses party lines and goes into the pocketbooks of everyone, therefore an individual, regardless of his political position in terms of party designation, could serve as a member of the municipal budget committee whereas, if it remains partisan because of the distribution of the political party, he could never be elected.

Sen. S. SMITH: Mr. President, I move that the words, "inexpedient to legislate" be substituted for the majority report, "ought to pass."

I can sympathize with the views of the Chairman of our Committee, however, it is also a fact that I come from a town

which has a non-partisan ballot which we adopted several years ago. I strongly believe that if a town desires to maintain a partisan ballot, they should have that privilege. This legislation is not permissive—it is mandatory. I feel that the people in the communities, if they so desire to have partisan elections, should continue to have partisan elections. I think this is one more example of how bills are being passed which weaken party structure and organization. It seems to me that the party process can be effective and can play a role in our political life. I think that the towns which have partisan ballots and have had them for many years should be allowed to continue and I hope that the Senate will vote inexpedient.

Sen. SPANOS: You indicated that this would have some kind of an effect on party organization and the party discipline and structure. Are you telling this august body that you would not like to see independents and those under the Hatch Act who serve on a budget committee?

Sen. S. SMITH: I would like to see all kinds of people serving on budget committees. But, I think in a town where there is a political structure and process in existence and the people want it, I don't see why we should make it mandatory that it be overturned.

Sen. POULSEN: Mr. President, I rise in support of Sen. Smith's motion. I believe that the towns that are partisan are partisan because they want to be. To disrupt that by putting in a non-partisan budget committee would definitely affect the running of the town. I think this would thwart the very idea which the town has.

Question on substituting "inexpedient to legislate" for "ought to pass."

Roll Call requested by Sen. S. Smith, seconded by Sen. Townsend.

Yeas: Sens. Lamontagne, Poulsen, S. Smith, Townsend, Gardner, R. Smith, Provost, Brown, Tufts.

Nays: Sens. Snell, Jacobson, Spanos, Nixon, English, Porter, Leonard, Ferdinando, Morrissette, McCarthy, Marcotte, Koromilas, Downing, Foley.

Result: 9 Yeas, 14 Nays. Motion lost.

Question on ordering SB 160 to third reading.

Adopted. Ordered to third reading.

SUSPENSION OF THE RULES

Sen. SPANOS: Mr. President, I move that the rules of the Senate be so far suspended as to place SB 160 on third reading at the present time. I only do this because there is a very remote chance that I may not be here on third reading and therefore ask my colleagues to support this measure.

Adopted.

THIRD READING AND FINAL PASSAGE OF SENATE BILL

SB 160, requiring the use of the non-partisan ballot for the election of a budget committee.

Adopted.

Sen. Spanos moved reconsideration. Motion lost.

COMMITTEE REPORTS CONTINUED

HB 199

to permit a legal voter who is registered as a member of a party to re-register as not being a member of any party. Ought to pass. Sen. Jacobson for Executive.

Sen. JACOBSON: Mr. President, I move that HB 199 be made a Special Order of Business for Tuesday, June 8 at 1:02. It was pointed out to me that there is some necessity to get a small amendment to this bill and the Legislative Services is absolutely jammed today so that it would be impossible to get it today.

Adopted. HB 199 made a Special Order of Business.

SB 110

providing that certain abandoned railroad rights of way be retained for recreational use and a study be made to develop plans for a feasible system of trails and providing an appropriation therefor. Inexpedient to legislate. Sen. Leonard for Executive.

Sen. JACOBSON: Mr. President, SB 110 and SB 78 deal with exactly the same subject but from a different perspective. We are asking that SB 110 be ruled inexpedient and they are

preparing an amendment which will incorporate the meat of SB 110 into SB 78. You will recall that originally, SB 110 was in Resources and Development and because we had a similar bill in our Committee, it was vacated and sent over to us. There will be SB 78 which will come in as "ought to pass with amendment."

Resolution adopted.

SB 232

providing the age of majority shall be eighteen years of age. Ought to pass. Sen. Leonard for Judiciary.

Sen. LEONARD: Mr. President, SB 232 was sponsored by Sen. Porter and myself. It provides that whenever the words, "majority" or "adult" are used, it means 18 years of age or more. In other words, anyone under 18 will be considered a minor instead of under 21. The common law rule that a person is a minor to the age of 21 is abrogated. There are 2,000 references to majority, adult and so forth in the statutes. These will have to be checked by Legislative Services within the next two years. You will note that this bill is not effective until July 15, 1973. There will be another session of the Legislature that will occur prior to the effective date of this bill and we feel that all of these 2,000 references and any problems which may occur in the meantime can be taken care of by that time.

Adopted. Ordered to third reading.

SUSPENSION OF THE RULES

Sen. NIXON: Mr. President, I move that the rules of the Senate be so far suspended as to permit the introduction of a committee report not previously advertised in the Calendar.

HB 392 is on a subject germane to SB 232 which this body has just passed. HB 392 establishes an interim committee to study the problems of lowering the age of majority from twenty-one to eighteen years of age. It provides for the appointment of a committee consisting of five members of the House to study the problems regarding this reduction in age and report to the 1973 session of the Legislature on or before January 15. The bill is thought to be one that is parallel in purpose to SB 232 and was intended to be brought in for consideration at the same time as SB 232 but was not because our secretary correctly but erroneously understood the pressure to get SB's before this body as opposed to HB's and this being a HB, she inadvertently did not put it in today's *Calendar*.

Adopted.

HB 392

establishing an interim committee to study the problems of lowering the age of majority from twenty-one to eighteen years of age. Ought to pass. Sen. Downing for Judiciary.

Sen. DOWNING: Mr. President, HB 392 will establish a study committee to study all the ramifications of lowering the age of majority to eighteen. HB 392 is an amended version which we received from the House. The original HB 392 would have accomplished the purpose of SB 232, which we have just passed. I have some reservations that the House may act negatively on that when it gets in there as they did their own HB, therefore, I think it is very important that we have the matter studied so that we can be prepared to act on the age of majority being lowered to 18 in the next session. I urge your support.

Adopted. Ordered to third reading.

SB 228

relative to the minimum age for marriage. Majority: Ought to pass. Sen. Koromilas for Judiciary. Minority: Inexpedient to legislate, Sens. Jacobson and Downing for Judiciary.

Sen. KOROMILAS: Mr. President, SB 228 is making its round for the third time in three successive sessions. It is a modest proposal. It hasn't been able to get out of the Senate. What the bill does is to increase the age limit which a young person may validly contract a marriage. Under the present law, a young lady of 13 or a young man of 14 can contract a marriage in this state. The present law goes back to the Seventeenth and Eighteenth Century. What the bill does is to require that a girl be 16 and a boy be 17 before they can validly contract a marriage. What happens in our courts today is that these young people can contract a marriage if they go to the Probate Court and get a waiver. Under the present law, a girl has to be 18 to marry on her own and a young man has to be 21 to marry on his own. Prior to that age, they have to get permission from the Probate Court. This bill would increase the marriageable age from 13 to 16 on the part of the girl and 14 to 17 for a boy.

Sen. SPANOS: What would be the status of a young lady 14 or 15 under your measure were she to arrive at a delicate condition?

Sen. KOROMILAS: She could not get married.

Sen. JACOBSON: Assume that this young lady in the delicate stage were 15 and the responsible party were 20, under your bill could they get married?

Sen. KOROMILAS: No, they could not.

Sen. NIXON: In the situation where you have a 15 year old girl in a delicate stage and a 20 year old boy and they could not get married, then perhaps they might be induced to place the child for adoption to give a better guarantee that he be brought up in a home where both parents wanted him and have the degree of love that the child required—would that be true?

Sen. KOROMILAS: Yes.

Sen. PORTER: Sen. Koromilas, how many of these delicate situations occur in N. H.?

Sen. KOROMILAS: There are quite a few. I don't know the exact figures but in Strafford County, it runs about 4 or 5 a year.

Sen. JACOBSON: If this bill should fail to pass, would that preclude the possibility of adoption of a child and putting that child into a better environment?

Sen. KOROMILAS: No, it would not.

Sen. JACOBSON: Mr. President, I move that the report of the Minority be substituted for that of the Majority.

As all can gather, this is the second round of this as far as my experience goes. My basic objection to this bill is that it attempts to establish by statute something that cannot be established and that is the fact of biological maturation. I agree that under the present sociological situation, that it is not a good thing that children of that age marry (and there are very few) and in most instances, an adoption takes place.

My distinguished colleague, Sen. Koromilas, talked about a modest proposal, but you remember Jonathan Swift's "Modest Proposal" had a great bang to it as does this.

Sen. KOROMILAS: Do you feel that a young lady of 13, if she were involved in a delicate situation, could take care of a young child?

Sen. JACOBSON: I can see it as possible.

Sen. KOROMILAS: Do you think it is desirable?

Sen. JACOBSON: Under the present socio-economic circumstances, she will have great difficulties.

Sen. DOWNING: Mr. President, I rise in support of the motion as made by Sen. Jacobson. The arguments against this presupposes that a man of 20 who is fathering a child and the girl of 15 doesn't want to marry and doesn't feel any responsibility. The fact is that if the bill is adopted, the law will prohibit them, regardless of the responsibility that they may feel, from getting married. I think this is absolutely ridiculous and I urge your support of Sen. Jacobson's motion.

Sen. KOROMILAS: Are you familiar with the law of our state with respect to statutory rape that a person of 16 or under cannot give consent to an indelicate act?

Sen. DOWNING: No, I am not.

Sen. JACOBSON: In cases of statutory rape, there would have to be a complaining party, would there not?

Sen. DOWNING: That is correct, but it is a prohibited act in this state for a man to actually have relationships with a young lady 16 or under—it is a crime.

Sen. MORRISSETTE: I rise in opposition to Sen. Jacobson's motion. It doesn't make any sense to me to allow a girl of 13 to get married just to save face.

Sen. FERDINANDO: Mr. President, I rise in support of Sen. Jacobson's motion on the basis that it would be discriminatory for any of us to fall in love with a 15 year old girl and not be able to marry her.

Sen. POULSEN: I rise in support of Sen. Jacobson's motion. Pregnancies are a fact of life and if a girl at the tender age should become pregnant, I think there should be every chance for her to bring up her child. We don't have any right to legislate against that possibility.

Sen. GARDNER: Sen. Koromilas, if I was about to become a grandmother and I was perfectly willing to do so, would this bill as it is now prevent the two parties from marrying?

Sen. KOROMILAS: If they were under 16 and 17, they couldn't be married.

Sen. KOROMILAS: Mr. President, I rise in opposition to the pending motion. I think that what we are talking about in this bill is the state policy and the consent of marriage. We are not talking about pregnancies—we are talking about the policies of this state. Should this state allow 13 and 14 year olds to get married? This is the important aspect of this bill. The State of New Hampshire possibly has the lowest age for consent of marriage. On the one hand, we say that we have laws which say that it is statutory rape to have any kind of relationship between a girl of under 16 and then we say that they can get married at that age. It seems to me that what is happening in our state is that some people have this situation happen to them and are able to get away with it by marrying.

Sen. DOWNING: We have been assuming that the younger of the parties would be the girl, but in the event that the girl was 18 or 19 and the boy 16, they would also be prohibited from marrying in your bill?

Sen. KOROMILAS: Yes, but there wouldn't be any statutory rape involved.

Sen. DOWNING: But they would be prohibited from getting married even though they were agreeable?

Sen. KOROMILAS: Yes.

Sen. SPANOS: Mr. President, I rise in support of the Minority Report. I don't quite agree with Sen. Koromilas in believing that what we are doing here is pointing out to the rest of the nation that this state has one of the lowest marrying ages. If it were that alone, I would probably subscribe to his philosophy and vote to eliminate a traditional concept prevailing in the state. But, there is still, within this law, the concept which you cannot get around—within the framework of the existing statute, there is an approach to a problem which can be a very rational approach in resolving a social issue that confronts a particular family. As long as there is some merit to the act and the legislation, we just cannot put it aside because we happen to be one state that has a different viewpoint than most states. As long as there is a function to the legislation, I support it and I can testify that there are many instances when these occasions arise when it is a nice thing to be able to have the parent's and court's consent to the marriage because the people involved do want the child and I think that as long as that exists, we ought to support this motion offered by Sen. Jacobson.

Sen. KOROMILAS: Sen. Spanos, in your last statement, you said the parents could have the child if they so desired—is that correct?

Sen. SPANOS: Yes. The boy over 20 and the girl under 14.

Sen. MCCARTHY: Mr. President, I rise in support of the motion offered by Sen. Jacobson. There are serious questions in my mind as to the justice of this bill and I have serious reservations about it.

Sen. ENGLISH: Mr. President, I move the previous question.

Adopted.

Question on substituting “inexpedient to legislate” for “ought to pass”.

Division taken: Result, 13 Yeas; 10 Nays.

Motion carried. SB 228 made inexpedient to legislate.

FURTHER MESSAGES FROM THE HOUSE

REFER TO LEGISLATIVE STUDY COMMITTEE

SB 66, requiring persons engaged in the hunting of big game animals to display on their person a minimum amount of color known as hunter orange.

HOUSE NON-CONCURRENCE

SB 83, making appropriations for an addition to Snively Arena.

HOUSE CONCURRENCE TO SENATE AMENDMENT

HB 703, providing that no person shall furnish to another person a license issued to himself.

VACATE COMMITTEE

Sen. POULSEN: Mr. President, I move that the order whereby SB 100, authorizing the State of New Hampshire to acquire from the Town of Woodstock bridge No. 205-078, was referred to the Committee on Public Works and Transportation be vacated and assigned to the Committee on Finance.

Adopted.

COMMITTEE REPORTS CONTINUED

CACR 32

RELATING TO: Age Qualifications for Certain Elective Offices, and PROVIDING THAT: No Person Shall Be Qualified to be Elected Governor or State Senator Until He has Attained His Twenty-Seventh Birthday. Ought to pass. Sen. Koromilas for Judiciary.

Sen. KOROMILAS: Mr. President, CACR 32 would drop the age at which a person may run for senator and Governor. At the present time, it is 30 for both offices. The reason for this is because it appears that the federal constitutional amendment will allow 18 year olders to vote and will increase the time span between an 18 year older's voter and the time he would hold office. This bill would drop the age three years. It is unfair for a person to wait 12 years when, under the present law of a person voting at 21, he only has to wait 9 years, therefore, we have equalized it.

Division taken: Result, 19 Yeas; 0 Nays.

CACR 32 Adopted. Ordered to third reading.

(Sen. S. Smith in the Chair)

SCR 5

memorializing Congress to assume all costs and administration of welfare programs. Ought to pass. Sen. Jacobson for Judiciary.

Sen. JACOBSON: Mr. President. I think everyone here is cognizant of the fact that the problem of welfare is one that is growing at a rapid intensity. It is already probably affecting most state governments in terms of their budgetary problems. Indeed, it is a principal item within our own state budget. However, the question of welfare is fundamentally a national question, and ought to be dealt with on a national level. With this in mind, I introduced this resolution, hoping thereby that we might, in some way, encourage the Congress to take steps to establish a national policy with respect to welfare.

If this should happen, we would be able to utilize a considerable percentage of our present state revenue in other areas which I believe, are more properly the province of state government. You might be interested to know that on a national basis, 6 percent of all Americans are on welfare rolls at this moment—amounting to 12.5 million people. The largest number of these

people are in the AFDC program. Before WW II, there were less than $\frac{1}{2}$ million cases on AFDC. In 1956, there were 2 million on AFDC. In December, 1970, there were 8.5 million cases on AFDC. This represents a spectacular increase in the question of welfare. Ultimately, the answer must come in two areas. We must either remake the economy so as to accomodate these people in some work pattern or we will have to change our attitude to the whole question of welfare and I am hopeful that this SCR 5 will pass and will serve as a prod to those members of Congress to give serious consideration to this important question.

Sen. PORTER: Does the resolution suggest that the federal government take over all costs of the welfare department?

Sen. JACOBSON: All welfare costs—yes.

Sen. PORTER: Does not this money that the federal government is paying come from the people anyway?

Sen. JACOBSON: Yes, certainly. It would mean that ultimately, the turnings of the national budget would have to be changed to that degree.

Sen. NIXON: Mr. President, I rise in support of SCR 5. It is a fact that regardless of the fact that the money that goes into welfare payments comes from all levels of government, the great majority of the rules are established at the federal level. As the sponsor of measures two years ago which require non-related, adult males to contribute to the support of the households in which they reside, and to make step-parents liable for the support of their step-children and to impose penalties on people for non-support, I ran across the fact that everything that was attempted to be enacted at the state level had to be tailored to the already existing federal statutes and regulations. This being the case, we are, in a sense, being dictated to as to who is eligible and to what extent. It seems to me that the obligation to pay the costs involved ought to be at the federal level, notwithstanding that the money involved is our money. There is a principle of consistency and logic in providing and imposing upon the federal Congress the obligation to pay the costs of the welfare program so long as they are going to take priority in establishing the rules and regulations that pertain to eligibility.

Sen. FERDINANDO: Mr. President, I rise in support of the resolution mainly to avoid the duplication that is going on. Here, in New Hampshire, we have situations where the county, city, state and the federal government are duplicating their efforts over and over again.

Sen. MORRISSETTE: Mr. President, I rise in favor of the resolution. I am concerned with the welfare situation and administration.

Resolution adopted. Ordered to third reading.

SCR 6

memorializing Congress to allow ten percent of total of any local or state taxes as a credit on the federal income tax return. Inexpedient to legislate. Sen. Jacobson for Judiciary.

Sen. JACOBSON: Mr. President, I introduced SCR 6, however, in the processes of legislative service, the bill was written wrongly and did not carry with it the intention that I had. My intention was the prospect of providing a 10 percent tax credit of the federal income tax which would then be available as state money. However, the bill came out to a 10 percent deduction on all forms of local, state taxes, which we already have. So that would serve no useful purpose. There was insufficient time to develop a proper statement and I asked the Committee Chairman to report it as "inexpedient."

Resolution adopted.

SB 231

to transfer certain costs of the Superior Court from the counties to the state, and making an appropriation therefor. Refer to Judicial Council. Sen. Nixon for Judiciary.

Sen. NIXON: Mr. President, SB 231 was sponsored by Sen. Tufts and an almost identical bill is the next bill on the calendar—SB 246, sponsored by Sen. Foley. Both of these bills were intended to and, if passed, would accomplish the transfer of the expense of the maintenance of the Superior Court system from the respective counties to the State of New Hampshire. I think the purpose of both bills is admirable and consistent with improving the system of justice in this state and the funding thereof. On the other hand, there are many ramifications to both bills which require more study, thus the recommendations for both bills that they be referred to the Judicial Council during the interim for study.

Sen. FOLEY: Mr. President, I would like to speak on both SB 231 and SB 246. They are both almost the same. I put in one of them because I felt that the county delegation has absolutely no control over the amount of money that the Superior Court costs. It is actually a state court in that we cannot tell them how many clerks to hire. We have absolutely no control over it. Therefore, if we have no control over it on the county level, I see no reason why it should not be paid for by the state who has the control. However, the costs of county government added up by each county would be almost \$1 million for the year. Therefore, rather than fight for this in Senate Finance, we agreed to send it to Judicial Council.

Resolution adopted.

SB 246

to transfer certain costs of the Superior Court from the counties to the state, and making an appropriation therefor. Refer to Judicial Council. Sen. Nixon for Judiciary.

Sen. NIXON: Mr. President, my remarks with respect to SB 231 also apply in respect to SB 246.

Resolution adopted.

HB 733

relative to operating snow traveling vehicles in the vicinity of ice fishermen. Ought to pass. Sen. Lamontagne for Public Works and Transportation.

Sen. LAMONTAGNE: Mr. President, HB 733 sets guidelines for snowmobiles on lakes. This bill requires snowmobilers to keep their machine at a distance of 150 feet. This does not stop the fishermen from bringing his or her machine into their fishing or bob house location.

Sen. KOROMILAS: As I read the amendment as adopted by the House, it says "the provisions of this section shall not apply to any person engaged in an emergency rescue operation or public service of any description or persons entering upon or leaving the ice." Would you explain the last phrase—"persons entering upon or leaving the ice."?

Sen. LAMONTAGNE: I yield to the senator from the Second District to answer that.

Sen. POULSEN: The point of that amendment was that in many lakes there is only one access that the state furnished and

in the event that people put bob houses near that section of ice, it would be impossible to get on the lake without coming within 150 feet of them so those bob houses which are located near that access are exempted from the law.

Sen. KOROMILAS: Is it not true that a great number of trails that are opened up on lakes and ponds are opened up by people with snowmobiles and that people then fish on that trail?

Sen. POULSEN: True.

Sen. KOROMILAS: The effect of this law would be that they couldn't go anywhere within 150 feet of the trail that they have established?

Sen. POULSEN: I think the intent was to be on the state regulated access that this refers.

Sen. KOROMILAS: So if I wanted to go on a lake outside of the access provided by the state and I made a path for the ice fishermen to go in and fish in that hole, I would then have to start a new path?

Sen. POULSEN: Presumably, you would.

Sen. KOROMILAS: Mr. President, I move that HB 733 be made a Special Order of Business for Tuesday, June 8 at 1:03. Adopted. HB 733 made Special Order of Business.

(Sen. Bradshaw in the Chair)

HB 798

requiring notice of junking of motor vehicles. Ought to pass. Sen. Lamontagne for Public Works and Transportation.

Sen. LAMONTAGNE: Mr. President, HB 798 is a house-keeping bill. It was felt this would help out on junk cars. If the car is going to be junked, the car title will be returned to the Motor Vehicle Department; also the inspection sticker on the windshield will be taken off.

Adopted. Ordered to third reading.

HB 800

providing for annual physical examinations for school bus operators. Ought to pass. Sen. Townsend for Public Works and Transportation.

Sen. TOWNSEND: Mr. President, HB 800 would require yearly physical examinations for school bus drivers. Evidence was given that there are some school bus drivers presently employed who should not be driving because of physical condition. The Committee feels that if we require our buses to be inspected periodically, it is not unreasonable to require the operator to have a physical examination at least once a year.

The House amended the original bill, but they were simple amendments. One of them merely provides for a standard examination form to be used throughout the state. It also provides for the cost of said examination to be borne by the carrier contract. There was no opposition to the bill and the Committee recommends its passage.

Sen. DOWNING: Mr. President, I move that HB 800 be made a Special Order of Business for Tuesday, June 8 at 1:04. The reason why I would like this put off until tomorrow is that I feel it has to be amended and I am not prepared to offer the amendment at this time. I feel that in its present form, it would work an unnecessary hardship on bus contractors who already have contracts extending for another year or two. Also, on school districts who have already budgeted their money and might not have money in their funds for these physicals.

RECESS

Sen. DOWNING: Mr. President, I withdraw my motion to make HB 800 a Special Order of Business. I move that HB 800 be recommitted to the Committee on Public Works and Transportation.

Adopted.

HB 805

relative to the color of highway yield signs. Ought to pass. Sen. Townsend for Public Works and Transportation.

Sen. TOWNSEND: Mr. President, HB 805 will give authority to the Highway Department to change the color of their yield signs which now are black and yellow to red and black. This will bring the state into conformity with what is now becoming more or less a world-wide sign. They hope that we will go along with this proposal.

Adopted. Ordered to third reading.

HB 819

setting minimum speed limits on certain highways. Ought to pass. Sen. Lamontagne for Public Works and Transportation.

Sen. LAMONTAGNE: Under this provision a minimum speed limit of forty five miles per hour shall be posted and prevail on the interstate highway system in the state. It was said fifteen states have minimum speeds of 40 to 45 miles per hour.

Confined to interstate or limited access roads and turn-pikes, with the aid of these minimum speed limits, these States listed exhibit safety.

It is now time for the State of N. H. to establish a minimum speed law in order to fully adapt the motoring public to our interstate highway system and at the same time, reduce a definite hazard within that system.

Adopted. Ordered to third reading.

HB 830

naming Loon Mountain Road. Ought to pass. Sen. Townsend for Public Works and Transportation.

Sen. TOWNSEND: Mr. President, HB 830 gives a name to the road which connects Rt. 3 in North Woodstock to the Kancamagus Highway in Lincoln. The name this highway will bear from this effective date forward will be Loon Mountain Road. It is felt the naming of this road will give it, and the Town of Lincoln some identity. There was no opposition and the Committee recommends its passage.

Adopted. Ordered to third reading.

HB 913

including paraplegics in the group of veterans not paying a fee for registration of their motor vehicles. Ought to pass. Sen. Townsend for Public Works and Transportation.

Sen. TOWNSEND: Mr. President, HB 913 merely adds the word, "paraplegics" to the law providing for free registration of motor vehicles for amputees when such disability is service connected. There have been cases where paraplegics were refused free motor vehicle registration. This bill will make the intent of the law clear. The House amended the original bill in a very minor way which would, in effect, restrict the free registration to one vehicle only.

Adopted. Ordered to third reading.

HB 914

including paraplegics in the group of veterans not paying a fee for a license to operate a motor vehicle. Ought to pass. Sen. Townsend for Public Works and Transportation.

Sen. TOWNSEND: Mr. President, HB 914 does, in effect, the same thing as HB 913—that is merely to add the word “paraplegic” to the law as it now reads.

Adopted. Ordered to third reading.

HB 922

providing for special license plates for motor vehicles of blind veterans. Ought to pass. Sen. Townsend for Public Works and Transportation.

Sen. TOWNSEND: Mr. President, HB 922 eliminates the requirement under the present law for a car to be displayed, over the windshield visor, stating that the owner of the car is blind. It is felt that this is uncalled for because any such vehicle has a number plate stating that the veteran owner is blind. There was a House amendment to the original bill which restricts the privilege of the blind owner to one vehicle only.

Adopted. Ordered to third reading.

HB 931

providing for special license plates for motor vehicles of paraplegics and amputees. Ought to pass. Sen. Townsend for Public Works and Transportation.

Sen. TOWNSEND: Mr. President, HB 931 eliminates the requirement for a card or tag to be displayed over the windshield visor that the owner is a paraplegic or amputee. This is not needed because the registration plate gives this information. The House amended the original bill which would restrict this to one vehicle also.

Adopted. Ordered to third reading.

HB 887

relative to the expiration date of hunting and fishing licenses issued to military personnel and others. Ought to pass. Sen. Porter for Recreation and Development.

Sen. KOROMILAS: Mr. President, HB 887 is a house-keeping bill which pertains to people from our military service. If a person is in the armed forces, is a resident to our state prior to going to another state to serve, he may come to the State of

New Hampshire and request a license to hunt and fish. Under the present law, that license would terminate either on January 1 or whenever he was out of the service, whichever came first. This would mak the license expire on December 31 rather than January 1.

Adopted. Ordered to third reading.

SB 233

relative to sewage disposal systems. Ought to pass. Sen. Porter for Resources and Environmental Control.

Sen. PORTER: Mr. President, SB 233, introduced by Sen. Poulsen, eliminates the 1,000 foot restriction in the so-called shore-line aspect of the section 149 in the RSA's. It is a part of another bill — HB 27 which met with a poor fate. This was on behalf of the Environmental Council. The Committee heard the hearing and urges your adoption of the report.

Sen. JACOBSON: As I understood your report, this eliminates the 1,000 foot restriction with regards to running water and the establishment of the requirement of the sub-division regulation with respect to Chapter 149?

Sen. PORTER: It eliminates the words, "nearer to shore-line" and so forth throughout 149.

Sen. JACOBSON: What is the intent of that—to universalize sub-divisions on water pollution control?

Sen. PORTER: The intent of this is that all sub-divisions will require the inspection by the Water Supply and Pollution Control Commission.

Sen. JACOBSON: The elimination of this particular portion of the law would make it possible that wherever there is not a public sewage system, all sub-divisions submissions would have to be approved in terms of the sewage disposal system by the Water Pollution Control Commission?

Sen. PORTER: Correct.

Sen. POULSEN: Mr. President, I rise in favor of this bill. This simply eliminates the 1,000 foot demarkation which has been the big trouble with the pollution laws in the state. Everyone who wanted to put in a septic tank always claimed that it was more than 1,000 feet from any water and consequently didn't come under the Water Pollution Control Act. It was

necessary for someone to pace around and find water to prove that they did and then make the complaint.

Adopted. Ordered to third reading.

SB 244

establishing an environmental protection department, and making an appropriation therefor. Refer to Joint Standing Committee of the Senate Resources and Environmental Control and House Environmental Quality and Agriculture for further study and report to the next session of Legislature. Sen. Porter for Resources and Environmental Control.

Sen. PORTER: Mr. President, SB 244 represents a top priority recommendation from the Environmental Council which was initiated last year by Governor Peterson. The Council considered several different aspects for the environmental control for the state and the collective judgments of the many sub-committees and recommendations. SB 244 is a large bill. It had the benefit of a large public hearing. There were three speakers who spoke in opposition to the bill. The Committee looked at the bill, heard the recommendations from the Governor's Office and gave due consideration to all of these recommendations. Therefore, they have sent in the above recommendation.

This bill creates a state agency responsible for the regulation of developments which may substantially affect the environment. A development is defined in the bill as a commercial or industrial development greater than 20 acres or greater than 10 acres if no planning board exists in a smaller town. This controls and regulates structures greater than 60,000 sq. ft., power plants and all developments above a certain elevation in various counties. This provides for hearing procedures. The criteria to be considered by the Department included meeting the financial capacity and technical ability to meet the air and water pollution control standards. There are adequate provisions for the disposal of solid wastes and the control of offensive odors. Proper soil type must also be present for the development.

I urge your adoption of the Committee Report.

Sen. MORRISSETTE: Mr. President, I feel that this is a real necessity and feel bad that it will not be acted on in this session.

Resolution adopted.

HB 613

relative to the terms of members of the Air Pollution Control Agency; expanding the powers of the agency and establishing a permit system for the control of air pollution. Ought to pass. Sen. Foley for Resources and Environmental Control.

Sen. PORTER: Mr. President, I move that further action on HB 613 be made a Special Order of Business for Monday, June 14 at 1:01.

Adopted. HB 613 made a Special Order of Business.

HB 622

relative to regional sewage disposal plants. Ought to pass. Sen. Porter for Resources and Environmental Control.

Sen. PORTER: Mr. President, HB 622 was introduced at the request of the Water Supply and Pollution Control Commission. This is to bring the authority of the Commission into line with the federal requirements so that they may receive federal money which is available. No one spoke in opposition to the bill as the hearing and the Committee urges your adoption.

Adopted. Ordered to third reading.

HB 636

to expand the authority of Water Supply and Pollution Control Commission relative to safety regulations for recreational camps and public swimming pools. Ought to pass. Sen. Porter for Resources and Environmental Control.

Sen. PORTER: Mr. President, HB 636 expands the authority of the Commission related to public swimming pools and recreational camps. There are a series of technical amendments to assure that the wording of the regulations are clear and understandable. It is really a Commission bill that they felt was needed in order to enforce the existing regulations. The Committee urges your favorable adoption.

Adopted. Ordered to third reading.

HB 624

banning propeller air driven boats from the waters of New Hampshire. Ought to pass. Sen. Porter for Resources and Environmental Control.

Sen. PORTER: Mr. President, HB 624 stems from a problem on Newfound Lake with respect to air propelled boats.

The problem concerned the noise. There was some thought given that certain anti-pollution measures are taken and spread, however, use of air powered boats would still not be restricted. This law deals with method of propulsion. The propeller has to be under water. The measure was endorsed by Safety Services

and no one appeared in opposition and the Committee urges your favorable adoption.

Adopted. Ordered to third reading.

HB 458

prohibiting the use of motor boats on Berry Pond in Moultonborough. Ought to pass. Sen. Snell for Resources and Environmental Control.

Sen. PORTER: Mr. President, HB 458 concerns Berry Pond. The bill was put in at the request of property owners. The sponsor had 27 letters in favor and 2 persons opposed from the area. Several other folks appeared in favor of the bill and no one appeared in opposition. This would ban all outboard motors on Berry Pond.

Adopted. Ordered to third reading.

VACATE COMMITTEE

Sen. ENGLISH: Mr. President, I move that the order whereby SB 304, establishing a state government internship program, was referred to the Committee on Education be vacated and sent to the Committee on Finance.

Adopted.

Sen. S. Smith moved that that Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock.

Adopted.

LATE SESSION

Third reading and final passage

SB 214, relative to filing city charters and amendments thereto, with the secretary of state.

SB 223, authorizing towns to appropriate funds to employ counsel for the prosecution of misdemeanors.

SB 226, providing that the election recount fee be waived in certain cases.

SB 251, requiring zoning ordinance changes to be voted upon by printed ballots.

SB 259, requiring competitive bidding on all purchases by Hillsborough County.

SB 160, requiring the use of the non-partisan ballot for the election of a budget committee. (Passed under Suspension)

SB 232, providing the age of majority shall be eighteen years of age.

HB 392, establishing an interim committee to study the problems of lowering the age of majority from twenty-one to eighteen years of age.

CACR 32, RELATING TO: Age Qualifications for Certain Elective Officers, and PROVIDING THAT: No person shall be Qualified to Be elected Governor or State Senator Until He Has Attained His Twenty-seventh Birthday.

SCR 5, memorializing Congress to assume all costs and administration of welfare programs.

HB 798, requiring notice of junking of motor vehicles.

HB 805, relative to the color of highway yield signs.

HB 819, setting minimum speed limits on certain highways.

HB 830, naming Loon Mountain Road.

HB 913, including paraplegics in the group of veterans not paying a fee for registration of their motor vehicles.

HB 914, including paraplegics in the group of veterans not paying a fee for a license.

HB 922, providing for special license plates for motor vehicles of blind veterans.

HB 931, providing for special license plates for motor vehicles of paraplegics and amputees.

HB 887, relative to the expiration date of hunting and fishing licenses issued to military personnel and others.

SB 233, relative to sewage disposal systems.

HB 622, relative to regional sewage disposal plants.

HB 636, to expand the authority of Water Supply and Pollution Control Commission relative to safety regulations for recreational camps and public swimming pools.

HB 624, banning propeller air driven boats from the waters of New Hampshire.

HB 458, prohibiting the use of motorboats on Berry Pond in Moultonborough.

Adopted.

Sen. Morrisette moved that the Senate adjourn at 5:01 P.M.

Adopted.

Tuesday

8Jun71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

Our FATHER, we seek Your wisdom in this moment of reflection. Our knowledge is limited, but You know all things. Our strength grows weak and at times our health is frail, but Your strength is a continuing comfort. So guide and direct us in those ways that lead to fruitful service, unselfish and meaningful endeavors; speak to us the Word that arouses the best in us, counsel us with words that change our lives and encourages us to be better servants. Amen.

Pledge of Allegiance was led by Sen. Lamontagne.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 309, authorizing an increased penalty for the violation of city by-laws. (Koromilas of Dist. 21 — To Executive Departments, Municipal and County Governments.)

SB 310, appropriating funds for the dredging of Hampton Harbor. (Tufts of Dist. 23 — To Finance.)

SB 311, prohibiting public statements relative to pending legislation. (Morrissette of Dist. 16 — To Judiciary.)

SB 312, regulating the powers of the New Hampshire Bicentennial Commission on the American Revolution. (Tufts of Dist. 23 — To Executive Departments, Municipal and County Governments.)

SB 313, to protect the Appalachian National Scenic Trail within the State of New Hampshire and making an appropriation therefor. (Porter of Dist. 12 — To Resources and Environmental Control.)

SB 314, relative to the dissemination of information about voluntary sterilization and requiring state financial assistance in certain cases of voluntary sterilization. (Jacobson of Dist. 7 — To Public Health, Welfare and State Institutions.)

SB 315, relative to continuing the office space study commission. (Bradshaw of Dist. 10 — To Finance.)

SB 316, relative to the Sweepstakes Commission. (Smith of Dist. 3; Spanos of Dist. 8 — To Ways and Means and Administrative Affairs.)

SJR 33, in favor of Crushing Inc. of Littleton, New Hampshire (Poulsen of Dist. 2 — To Finance.)

SJR 34, establishing a commission to study the New Hampshire Retirement System (Foley of Dist. 24 — To Ways and Means and Administrative Affairs.)

HOUSE MESSAGES

SENATE NON-CONCURRENCE TO HOUSE AMENDMENT

SB 163, prohibiting dumping materials from out of state.

On motion from Sen. Porter, the Senate voted to non-concur on the amendment offered by the House and to establish a Committee Conference.

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 5, relative to powers and duties of New England Interstate Water Pollution Control Commission. (Resources and Environmental Control)

HB 131, relative to operation of liquor stores on holidays. (Ways and Means and Administrative Affairs)

HB 365, to abolish the unclassified position of state entomologist. (Executive Departments, Municipal and County Governments)

HB 419, relative to supplies for discharged prisoners. (Public Health, Welfare and State Institutions)

HB 743, relative to licensing fees, registering, and kennel fees for dogs. (Recreation and Development)

HB 788, prohibiting the use of motor boats on Jericho Pond. (Resources and Environmental Control)

HB 928, prohibiting motor boats on Smith Meeting House Pond and Rollins Pond. (Resources and Environmental Control)

HB 930, relative to the prevention of pollution from dredging, filling, mining, or other construction. (Resources and Environmental Control)

HB 936, providing that cooperative school districts may elect district officers at the time and places for the election of town officers in the towns which comprise the district. (Education)

HB 939, relative to collecting taxes, penalties and interest resulting from a supplemental property assessment, and providing for a lien. (Ways and Means and Administrative Affairs)

HB 958, to provide for the separate settlement of property damage and personal injury claims arising out of the same motor vehicle accident. (Banks, Insurance and Claims)

HB 959, to clarify superior court writs. (Judiciary)

HB 965, relative to the parole laws. (Judiciary)

HB 966, to repeal those portions of the RSA which deny paupers the right to vote. (Executive Departments, Municipal and County Governments)

HB 974, relative to increasing the fees in district courts.
(Judiciary)

HOUSE CONCURRENCE

SB 131, abolishing arrest upon civil process.

SB 146, authorizing the prosecution to take depositions of certain witnesses in criminal cases.

SB 147, relative to the voluntary retirement of supreme and superior court justices.

SB 180, relative to the inclusion of certain pupils from partially closed non-public schools in the computation of state aid due school districts.

SENATE CONCURRENCE TO HOUSE AMENDMENT

SB 171, relative to Sunday dancing in hotels and certain restaurants.

(See HJ 7 June 71 for amendment)

Sen. S. Smith moved concurrence.

Adopted.

ENROLLED BILLS REPORT

SB 62, establishing statutory rights in lieu of dower and curtesy.

SB 108, increasing the membership of the barbers' board.

SB 133, relative to the Uniform Reciprocal Enforcement of Support Act.

Sen. Ferdinando
For the Committee.

ANNOUNCEMENT BY THE CHAIR

The CHAIR would announce that due to mechanical failure as the result of the electrical storm today, our tape recorder is not operating as efficiently as it is supposed to and would advise all members to check their statements for accuracy in this week's *Journals* and advise the Clerk of any necessary corrections.

COMMITTEE REPORTS

SB 204

providing for the payment of interest on real estate tax payments paid by mortgagors to banking institutions. Majority: Ought to pass. Sen. Morrisette for Banks, Insurance and Claims. Minority: Inexpedient to legislate. Sen. Poulsen for Banks, Insurance and Claims.

Sen. MORRISSETTE: Mr. President, I introduced these four bills because of my deep concern for the banks and their participation in the welfare of our communities. I have agreed to go along and put my trust in the banks' integrity. SB 204 is a very simple bill that calls for long, overdue justice for the people who give money to the banks in escrow for their taxes. This money is rightfully theirs and the banks accumulate many millions of dollars and it would be only just that they pay interest on it. Furthermore, the banks have an expansion power whereby they can in turn loan that money out and still keep their reserves. I have statistics that show that for every dollar you loan them, they make 37 cents through the multiplication factor.

I think it is just that banks should pay interest to the consumer. The banks get that money, pay no interest on it and won't give any of the money to the cities and towns. Then they turn around and loan the money to the cities and towns and make money. The objections that you hear from the banks are that they have to do the bookkeeping. The fact of that matter is that it costs them practically nothing. All they would have to do when they compute the taxes at the end of the year is that they would owe the people the money that they put in plus the interest.

The First National Bank makes 52 cents on every dollar so as you can see, the banks are doing all right. From a newspaper clipping, it is indicated that during a recession period, the banks did outstanding. I had some stock in banks and it was the only stock that didn't take a beating.

Some people will ask why you put your money in escrow. The banks, in the case of loans over 75 percent, require you to put your money in escrow so you have no choice. It is the little guy who is effected. The big boys don't have to do this because they have the money to pay the taxes at the end of the year. It is a public necessity that the tax be deposited each month. We are asking the banks to do something for the people and I hope that

the Senate will go along and protect the interest of the consumer.

Sen. POULSEN: Mr. President I move that the Minority Report, "Inexpedient to Legislate" be substituted for the Majority Report, "Ought to Pass". This bill has to do with escrow. Historically, banks do not like escrow. It is a nuisance to any bank. It is a bookkeeping problem and a matter of holding someone's money to insure payment, mostly of taxes, also of insurance and other things. This bill would require banks to pay interest on that money. Most of this money comes to banks in small amounts each month. It doesn't come in the form of a loan at all. It is a monthly payment that is made with mortgages. It is made sometimes by choice of the mortgagor, but often of necessity. Mortgages where the amount is 80 percent and higher have a mandation that the bank escrow the money. There is no reason in the world for the banks to pay interest on the money that if they had their choice, they wouldn't even have. This is purely a matter of consumer convenience that they even have these escrow accounts, therefore, I move that the whole matter be made inexpedient to legislate.

Sen. MORRISSETTE: Don't you feel that in business, we have to take both the cream and the milk—that we cannot take simply the cream? This is the case here.

Sen. POULSEN: I think that it is true that businesses do have to take both, but I don't consider this either in this case.

Sen. MORRISSETTE: Don't you feel that in view of the tremendous profits that are being made by the banks that it would be a big help to the small home owner who is required to put that money there every month to pay interest on the money?

Sen. POULSEN: I don't feel that way because the only ones who are paying it are the ones whose mortgages aren't up to what is considered average. They either have mortgages that are guaranteed by the government or in which there is a less than standard payment.

Sen. KOROMILAS: Sen. Poulsen, do you have an objection that a mortgagor who pays his real estate taxes in advance to getting some interest on that particular money?

Sen. POULSEN: My objection is that the banks are doing this escrow business as a convenience for the customer. I don't think they should be penalized into have to pay interest on

something which isn't of their choosing. They are doing these escrow accounts of necessity to insure that someone on the other end gets paid—not for their own gain. To pay money out on a thing like that would put an unnecessary burden on them.

Sen. KOROMILAS: Is there an economic benefit to the bank where it doesn't pay the mortgagor interest on the escrow account?

Sen. POULSEN: If there is, it is so slight that banks would choose, if they had the choice, not to handle escrows in any way.

Sen. MORRISSETTE: Isn't it a fact that this law which requires paying the money in escrow is something that the banks requested and had put into law a few years back to protect their investment?

Sen. POULSEN: I think it is only to protect the investments where the down payment is so small that the bank's loan is in jeopardy as compared with standard loans.

Sen. KOROMILAS: Mr. President, I rise in opposition to the pending motion. I think that it is well-recognized that banks do require, in most instances, that an escrow account be kept. I can understand this fully from the bank's point of view because if they are the mortgagee and they loan and the taxes are not paid, eventually someone has to pay them. If the mortgagor cannot make the taxes, sometimes the bank has to pay them. I think there is definitely an economic benefit on the part of the banks to receive escrow accounts. This is money that is in their hands. If they don't pay interest on these accounts, it would seem to me that it is not just a question of convenience, it is a question of financial gain.

Sen. MCCARTHY: Mr. President, I rise in opposition to the pending motion. My reason for so doing is the fact that I think it must be a very lucrative business and I seriously have some question in my mind. I think I would like to have the chance to be able to collect all the people's money in the City of Manchester and have the opportunity to invest that money in some other channel and not pay any interest back to the people. Frankly, I think it must be a lucrative business.

Sen. NIXON: Mr. President, I rise to support the Minority Report and in opposition to the Majority Report with respect to this particular bill. I listened carefully to the arguments pro

and con, including those of the economist who spoke on behalf of the bill and those arguments on behalf of the banks involved who would be obliged to pay the interest. As far as I am concerned, a convincing case was not made that the bank's profit from the tax escrow account. They do not encourage the payment of those accounts; they only do it when it is required by law and it is considered by them to be a service. There is no question that after they have collected the accounts and until the taxes are paid, there is money that is available to them for investment, but as I stated earlier, I was not convinced that there is a sufficient profit made by them, having in mind the handling charges involved each month for each mortgagor, that should oblige them to attempt to further pay interest on those accounts. I don't think the public interest involved warrants the passage of the bill as it is submitted.

Sen. MORRISSETTE: The same argument was brought up at the hearing. Do you think the banks would prefer to get rid of all the small savings accounts under \$500?

Sen. NIXON: I think the banks would much prefer, if they had the choice, to have large deposits in smaller numbers than small deposits in larger numbers.

Sen. MCCARTHY: Sen. Nixon, are there any other financial institutions other than banks that are allowed to accumulate the people's money and have no obligation to return interest?

Sen. NIXON: Insurance companies are paid premiums in advance and invest those premiums and make money on the investment. They are not obliged to return to the policy holders who pay the premiums any of the profit that they make on those investments except to the extent that our Insurance Commissioner, of recent date, is requiring that the investment income is to be taken into consideration in determining whether or not a particular insurance company is making a profit for purposes of getting a rate increase which is a laudable procedure. That is the only instance I can think of.

Let me say this again. It isn't the banks who are imposing upon the borrowers the obligation to pay escrow monies for tax purposes — it is the statutes passed by the Legislature of New Hampshire. It occurred to me, when I heard the evidence on behalf of Sen. Morrissette's bill, that the best solution of the problem would be to repeal the law whereby in certain situation of loans of 70 percent of appraised value or more, the escrow

monies are required to be deposited. It would encourage the people to put that same money into a savings account.

Sen. MCCARTHY: From your experience as a legislator, do you think the banking industry would facilitate in this legislation?

Sen. NIXON: I am glad you asked that question because that is the question I asked the bankers at the hearing and no, they were not the ones who initiated the legislation requiring them to hold tax escrow money until the tax bill is due.

Sen. MORRISSETTE: Are you aware that the banks frequently require, as part of their contract, that you pay your escrow money?

Sen. NIXON: I am aware that if you borrow money of an equal amount to 70 percent or more of the appraised value of the property given as security, the law requires you to pay escrow monies to the bank. I am not aware that any bank requires you to pay escrow monies other than in accordance with the statutory requirement and I believe at the hearing, nobody brought in any evidence that a bank does require you to make tax escrow deposits other than is required by statute.

Sen. MORRISSETTE: I do.

Question on substituting the Minority Report, Inexpedient to legislate for the Majority Report, Ought to pass.

Division: 6 Yeas, 12 Nays. Motion lost.

Question on ordering SB 204 to third reading.

Adopted.

SB 205

relative to interest rates on loans being charged by banks. Refer to Legislative Study Committee. Sen. Morrisette for Banks, Insurance and Claims.

Sen. MORRISSETTE: Mr. President, I have agreed to go along with the Committee's recommendation. As I expressed before, I am very concerned with the bank's charging 9½ percent when they could charge 7 percent during our recession period. I have confidence in the integrity of our Committee and I think that the Legislative Study Committee will come up with the right recommendations relative to this subject. I am in favor of the recommendation.

Resolution adopted.

SB 206

relative to investments by banks. Ought to pass. Sen. Morrisette for Banks, Insurance and Claims.

Sen. MORRISSETTE: Mr. President, I move that SB 206 be recommitted to the Committee on Banks, Insurance and Claims. I would like to have our Committee meet later today or tomorrow and decide on the possible merit of referring this bill to a study committee or in incorporating this in some other bill and I would be appreciative if my colleagues would go along with this recommendation.

Adopted. SB 206 recommitted.

SB 208

relative to payment of certain property taxes by firms which hold money designated for the payment of taxes in escrow accounts. Inexpedient to legislate. Sen. Morrisette for Banks, Insurance and Claims.

Sen. MORRISSETTE: Mr. President, SB 208 would have returned the escrow money on taxes to the local community. This bill was far more opposed by the banks than SB 204 and I felt that it would have been very difficult to get it through. SB 204 also appears to be more just in that the interest is being paid to the person who rightfully owns the money. SB 208 would have brought the money into the community and therefore, they wouldn't have to borrow as much money. The Committee felt that this bill should be inexpedient to legislate.

Resolution adopted.

SB 102

establishing limitations on tuition charged residents by the trustees of the University of New Hampshire. Ought to pass with amendment. Sen. English for Education.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

providing that school districts may in borrowing include the cost of planning for construction.

Amend the bill by striking out everything after the enacting clause and inserting in place thereof the following:

1 Planning Costs in Construction of School Buildings. Amend RSA 198:15-b (supp) as amended by 1955, 335:9; 1957, 301:1; 1963, 277:3; 1965, 150:2; 1967, 362:4, 399:1, 449:3 and 1969, 347:4 by inserting in line twenty-seven after the word "site" the word (planning) so that said section as amended shall read as follows: 198:15-b Amount of Annual Grant. The amount of the annual grant to any school district duly organized, any city maintaining a school department within its corporate organization, any cooperative school district as defined in RSA 195:1, or any receiving district operating an area school as defined in RSA 195-A:1, shall be a sum equal to thirty per cent of the amount of the annual payment of principal on all outstanding borrowings of the school district, city, cooperative school district or receiving district, heretofore or hereafter incurred, for the cost of construction or purchase of school buildings and supervisory union facilities, to the extent approved by the state board of education, provided that any school district may receive an annual grant in the amount of forty per cent for the construction of an educational administration building for supervisory union, and provided that the amount of the annual grant in the case of a cooperative school district, or a receiving district operating an area school, shall be forty per cent plus five per cent for each pre-existing district in excess of two and each sending district in excess of one, and provided further that no cooperative school district, or receiving district operating an area school, shall receive an annual grant in excess of fifty-five per cent. For the purposes of computing grants hereunder the amount of the annual payment of principal shall be increased by an amount equal to the amount of capital reserve and/or amount raised by taxation which was actually expended for the project at any time, divided by the number of years for which bonds or notes were issued to provide funds for such school building or supervisory union facilities. If the project was entirely financed by the use of capital reserve or amounts raised by taxation, the aid provided herein shall be paid in ten equal annual grants. For the purposes of this subdivision construction shall include the acquisition and development of the site, planning construction of a new building and/or additions to existing buildings including alterations providing additional pupil capacity, architectural and engineering fees, purchase of equipment and any other costs necessary for the completion of the building as approved by the state board of education; and purchase of school buildings shall include the

acquisition and improvement of land in connection therewith and the remodeling, altering, repairing, equipping and furnishing of such buildings as approved by the state board of education.

2 Effective Date. This act shall take effect sixty days after its passage.

Sen. DOWNING: Mr. President, the amendment on SB 102 would be to strike out the title entirely and strike out the enabling act entirely and replace it with the title and enabling act as printed in SB 21. SB 21, when it was in Committee, had some amendments added to it which had money involved in them. As a result, though it passed the Senate, the Senate Finance Committee and the House, it was sent to House Appropriations. The situation being what it is financially, I am very suspect of its eventual position. The content of SB 21 is vitally important. We have passed similar legislation relative to municipal financing in SB 45, which is now law. This would do the same thing for school districts in that any school district which borrows money to plan a building program can include that money in a bond issue, if and when they do have a bond issue. It is substantial relief to the taxpayer rather to have to raise this kind of money out of direct taxation in any one year. They could spread it out over the lifetime of the bond issue. I urge your support.

Amendment adopted. Ordered to third reading.

SB 65

providing that law enforcement officers shall be paid for time spent in court. Ought to pass with amendment. Sen. Leonard for Executive.

AMENDMENT

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Police Officers in Towns or Cities of Over Fifty Thousand Population. Amend RSA 592-A by inserting after section 13 the following new section: 592-A:13-a Pay in Lieu of Witness Fee. Notwithstanding the witness fees payable pursuant to RSA 592-A:13 to an off duty police officer, when such an officer is employed by a town or city of fifty thousand or more population, he shall receive regular rate of pay that he would be

entitled to if he were on duty. The provisions of this section shall apply only when such officer is required to appear in the superior court as a witness in a criminal case.

2 Effective Date. This act shall take effect sixty days after its passage.

Sen. LEONARD: Mr. President, we passed this bill last year and it was brought down in the House because it amended a statute pertaining to city and town police together. Town police usually work 48 hours a week and city police, 40 hours. This was amended so that it only applied to cities or towns over 50,000 population, which would be in Manchester and Nashua. It has a simple provision that when a law enforcement officer is in the Superior Court testifying or waiting to testify, he will be paid at the same rate of pay that he would be getting while on duty. It does not concern travel expenses.

Amendment adopted. Ordered to third reading.

(Sen. S. Smith in Chair)

SB 169

relative to the special elections of a mayor. Ought to pass. Sen. Leonard for Executive.

Sen. LEONARD: Mr. President, SB 169 pertains to the elections of a mayor. It provides that when a mayor vacates his post (and it defines how it is vacated) for over thirty days due to sickness, the Board of Aldermen or the City Council would deem that the post was vacant. When it is vacant, it provides for an election—either a general election or a special election within 90 days.

Sen. MORRISSETTE: I introduced this bill because a few years ago, our mayor died and there was no election held. The majority of the people in the city were very much offended by not having the opportunity to elect this person. It is good public policy to have a public election when you lose the chief executive of a city rather than have the politicians elect this man; for then the other party is not represented.

Adopted. Ordered to third reading.

HB 275

authorizing towns to make by-laws relating to hazardous pits. Ought to pass with amendment. Sen. Poulsen for Executive.

AMENDMENT

Amend section 1 of the bill by striking out the same and inserting in place thereof the following:

1 Hazardous Pits. Amend RSA 31 by inserting after section 41-a (supp) the following new section: 31:41-b Hazardous Pits. Towns shall have the power to make by-laws regulating land excavation for the protection of the health or safety of the public, and may enforce the observance of such by-laws through suitable penalties not exceeding fifty dollars for each offense, to inure to such uses as said town may direct.

Sen. POULSEN: Mr. President, this amendment changes the penalty from \$100 to \$50 which is in keeping with the RSA's as the proper penalty for the violation of a town ordinance. The ordinance itself simply gives the town the right to legislate against hazardous pits, which are gravel pits, clay pits or anything else, so that they have a proper face and are not dangerous. The Committee recommends that this be passed.

Amendment adopted. Ordered to third reading.

SB 53

providing for a monitoring program of and the preservation of the ledges on Profile Mountain and making appropriations therefor. Ought to pass. Sen. Brown for Finance.

Sen. BROWN: Mr. President, this amendment replaces the original bill and the object of the amendment is to try and ascertain the movement of the ledges on Profile Mountain known as Profile. Testimony was offered that they were moving at an alarming rate. They want to put monitoring devices on the ledges to ascertain the movement so that we can preserve the profile, a landmark throughout the world, for the State of New Hampshire. The appropriation was changed from the original bill from \$180,000 to \$50,000. \$30,000 of it is for the monitoring devices and the \$20,000 is for repairs to prevent dirt and so forth from getting in there to hold moisture to expand in freezing and opening up anymore than they already are. The Committee recommends its passage.

Adopted. Ordered to third reading.

VACATE COMMITTEE

Sen. BRADSHAW: Mr. President, I move that the order whereby SB 127 and SB 140 were referred to the Committee on

Finance be vacated and sent to the Committee on Ways and Means and Administrative Affairs. These bills have been in the possession of the Senate for quite some time. They were alleged to have been the so-called agreed bills on workmen's compensation matters. It seems that these bills were posted for hearing quite a while ago by the Committee on Ways and Means and somebody informed the Committee that there was a problem, therefore the hearing was put off and they were sent to Finance due to the fact that they would have to go there eventually. We now find that allegedly all parties have gotten together, agreed on stripping out the money and putting the two bills together. An amendment is being prepared. It is not a proper function of the Committee on Finance who is overworked at the present time anyway. Consequently, I would hope that the Senate would send these two bills back to the Committee on Ways and Means who hopefully could get them in this Chamber for action on Thursday.

Adopted.

(Sen. Bradshaw in the Chair)

SB 236

to abolish the so-called "locality rule" in judicial matters involving professional malpractice suits. Ought to pass with amendment. Sen. Nixon for Judiciary.

AMENDMENT

Amend section 1 of the bill by striking out the same and inserting in place thereof the following:

1 Rule Abolished. Amend RSA 508 by inserting after section 12 the following new section: 508:13 Professional Malpractice; Evidence. In determining whether the person against whom a malpractice claim has been made has met the applicable standard of care, the jury or judge shall not be bound or limited by the standard of care accepted or established with respect to any particular geographical area or locality, but shall consider only whether the person against whom the claim is made has acted with due care having in mind the standards and recommended practices and procedures of his profession, and the training, experience and professed degree of skill of the average practitioner of such profession, and all other relevant circumstances.

Sen. NIXON: Mr. President, I was the sponsor of SB 236. This bill would apply to actions for negligence or, as it is called, malpractice, against professionals by members of the public in New Hampshire. At the present time, members of the public are oftentimes frustrated in their efforts to seek compensation for damages caused by negligence of professionals because of the so-called "locality rule". This is a rule which was handed down by judicial decision many decades ago which provides, in essence, that in order to find a particular lawyer negligent or guilty of malpractice, you have to have someone testify against him that he has violated standards of due care applicable in the area where he practices rather than in the state generally. The same is true with respect to doctors. This bill would abolish that rule. It was not opposed by any professional society or organization. It was supported by the Bar Association and by the Medical Society. It is in the public interest and the recommendation is ought to pass with amendment.

Amendment adopted. Ordered to third reading.

SB 239

providing that irreconcilable differences shall be the sole grounds for divorce and eliminating the fault concept of divorce. Ought to pass. Sen. Nixon for Judiciary.

Sen. NIXON: Mr. President, SB 239 was sponsored by Sen. Leonard and it would bring New Hampshire into the Twentieth Century in regard to the laws applicable to divorce. This law, if enacted, will not make it any easier to get a divorce in New Hampshire than it now is. What it will do is inject into the process a degree of honesty that has been lacking for many years. At the present time and under present law, one person in New Hampshire can be divorced from another to whom he or she is married under the following grounds: impotency; adultery; extreme cruelty which usually involves physical mistreatment or the threat thereof; conviction of either party in any state or federal district of a crime punishable with imprisonment of more than one year and actual imprisonment on such a conviction; when either party has treated the other as seriously to injure health or endanger reason (oftentimes thought of as mental cruelty in other states); when either party is a habitual drunkard and has been such for two years together; when either party has been absent two years together and has not been heard of; when either party has joined any religious sect or society which professes to believe the relation of husband and wife unlawful

and has refused to cohabit with the other for six months together; when either party, without sufficient cause and without the consent of the other has abandoned and refused for two years together to cohabit with the other; etc.

These grounds for divorce date back to the 1700's and 1800's. The two most commonly utilized grounds for divorce are extreme cruelty and mental cruelty. Oftentimes, you find that when a marriage is, in fact, dissolved in a sense that the parties aren't living together and are fighting whenever they see each other, one of them goes to a lawyer and states his problems. The lawyer looks it up in his grocery list of grounds for divorce and finds that that person, however dead the marriage is, has not brought himself within one of these old grounds and so the lawyer says that the law cannot help you because one of the items on the list hasn't happened. Eventually, the parties have to resort to lying about the circumstances in order to obtain the divorce.

SB 239 would alleviate all the foolishness, sham and hypocrisy which creates disrespect for our legal system in the minds of those involved in these processes and provides that the sole grounds for divorce may be irreconcilable differences between the parties, if found to exist as a fact by the judge. The emphasis on the proceedings would be on what is best for the parties and society and the children involved. The court could proceed on an intelligent basis if, in fact, the marriage were defeated.

It is felt that this bill would not liberalize the divorce law in New Hampshire but would make it more honest and anything that will make our legal processes more honest, I suggest ought to be adopted. It was the unanimous opinion of the members of the Judiciary Committee in attendance at the Executive Session, and it is reported, that this bill ought to pass.

Sen. LEONARD: Mr. President, I would like to add one thought to what Sen. Nixon has said. The grounds for divorce in New Hampshire as he read, in my opinion, are results of the two people not getting along in the first place. This law goes back to the real cause for divorce—they just absolutely cannot get along. When people don't get along, they stop talking, the husband goes out, has a few beers and slaps his wife in the face, which is grounds for divorce. I had one case where this woman told me her story and I said she had no grounds under our statutes. A

couple of weeks later, she came in with a black eye and a big smile on her face. She obviously had prodded her husband until he belted her. She then had grounds for divorce. As Sen. Nixon says, this is bringing up our statutes to the Twentieth Century.

Sen. MORRISSETTE: Mr. President, I rise in opposition to this further amending of our laws. California passed a law of this type and they had an increase of 40 percent in divorces. Our laws are lax now and to further weaken our laws would only encourage divorces. We are faced with an increase in welfare due to dependent children and the *prime* reason for this is divorce. It is the children who get the raw end of the deal. Too many families are breaking down because couples are not making an attempt to make a go at it.

Sen. JACOBSON: Do you believe that if we should tighten the divorce laws that we would then reduce our welfare cases?

Sen. MORRISSETTE: We certainly would, but there is no hope for that.

Sen. JACOBSON: Are you aware of the desertion rate in this county?

Sen. MORRISSETTE: Yes, but I have a bill which may do something about that.

Sen. JACOBSON: Assume that you are caught in a marriage which was irreconcilable as far as you were concerned. Would you not consider desertion an option if the laws of divorce were so tight that you could not legally get one?

Sen. MORRISSETTE: There is nothing wrong with the concept of the bill. My objection is to give additional encouragement to get a divorce.

Sen. LEONARD: Do you realize that under the present statutes on divorce in this state that an uncontested divorce is one of the easiest things to get?

Sen. MORRISSETTE: I have heard such.
Adopted. Ordered to third reading.

SB 193

defining the crime of begetting a woman with child and giving jurisdiction to the district courts. Refer to Judicial Council. Sen. Koromilas for Judiciary.

Sen. KOROMILAS: Mr. President, SB 193, as the title indicates, is an attempt to improve the bastardy laws. Sen. Morrisette sponsored this particular bill. He did submit an amendment and we studied the amendment. The interesting aspect of this bill and amendment is that it would make it a crime punishable up to \$1,000 if a person was responsible for a child if he was found guilty of begetting a child out of wedlock. The Committee felt that since there is another bill that is coming from the House, the Uniform Paternity Act, that this be referred to the Judicial Council for further study and that the House bill will probably come in after the deadline, possibly incorporating some of the aspects of this particular bill.

Sen. MORRISSETTE: Are you aware of the tremendous welfare problem caused by these abandoned, illegitimate children?

Sen. KOROMILAS: Yes.

Sen. MORRISSETTE: I move that the words, "ought to pass" be substituted for the Committee Report, "refer to judicial council". I hope that my colleagues will consider not killing this bill today so that it can go to the House and if there are some inadequacies in the bill, that it will be given an opportunity for correction. This bill was introduced at the suggestion of county attorneys and drafted by them. I hope that you will not kill this bill and give the House a chance to vote on it.

Sen. NIXON: Mr. President, I rise in opposition to the pending motion and in support of the Committee Report. The Senate Judiciary Committee had two bills on this subject. The other bill is the House bill which is the Uniform Paternity Act, which is a broad, comprehensive bill which provides for obliging the father of an illegitimate child to pay the hospital expenses, the expenses of confinement, medical expenses and also to support that child throughout the period of its minority. That bill, if adopted, would place us in a parallel situation with other states which have already adopted it. It provides for an expeditious procedure for the handling of illegitimate children and does not make the fact of having an illegitimate child a crime as would this bill.

The Committee felt that there were some meritorious provisions of SB 193, but as Sen. Koromilas has stated, they could be incorporated into the House Bill still under consideration in

our Committee. It is for that reason that we have the recommendation that it be referred to Judicial Council.

Sen. MORRISSETTE: Who is going to lodge the complaint?

Sen. NIXON: It is necessary to lodge a complaint under the Uniform Act which is the House Bill which is under consideration in our Committee at the present time. The person, the girl, or anyone interested including the Welfare Agency or anyone supplying support to the child in question can file a petition for support in the Superior Court so the other end to which your bill is directed would be accomplished under the Uniform Act. The additional benefit would be accomplished by placing New Hampshire in line with other states which have also adopted that act.

Sen. MORRISSETTE: Could the Welfare Department initiate the complaint?

Sen. NIXON: Anyone who contributed to the support of the child could.

Question on substituting "ought to pass" for "refer to Judicial Council."

Motion lost.

Question on referring SB 193 to Judicial Council.

Adopted.

SB 227

providing for equitable actions against polluters of the air, water and other natural resources of the state. Ought to pass. Sen. Koromilas for Judiciary.

Sen. KOROMILAS: SB 227, as the title implies, would give the Attorney General, any political subdivision, any corporation, any private person, the right to bring suit to abate air, water, noise and other types of pollution. It is an affirmative defense in the case brought under this particular bill. The defendant can say that there is no feasible and proven alternative. In other words, if there is no other way of doing it, this is a defense to an equitable action under this particular bill. It also allows a referee to be appointed to listen to the complaint. It also allows for the court to remit the action brought in to an administrative agency such as the Air Pollution Control Commission or the Water Resources Commission. From there on,

they would take the particular hearings on the matter. It also provides that any person who wants to intervene may do so in a case of this sort. This gives the right to any person, including the state, to take action against polluters in general.

Adopted. Ordered to third reading.

SB 237

relative to salaries of special justices of the district courts. Ought to pass with amendment. Sen. Koromilas for Judiciary.

AMENDMENT

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Amend RSA 502-A:6 I as inserted by 1963, 331:1 and amended by 1967, 438:1, 1969, 124:5 and 1970, 14:1 by striking out in line seventeen all after the word "herein" and inserting in place thereof the words (The administrative committee of the district and municipal courts shall compute the salaries as provided in this section and shall annually, in February, notify the local governing body of each city or town in which each district court is regularly located the amount to be paid the justice, special justice and clerk for an annual period commencing in July.) so that said paragraph as amended shall read as follows: 502-A:6 I Salaries of Justices. The cities and towns in which the district courts are regularly located shall annually appropriate and pay the justices of the district courts salaries computed in the following manner: for the first fifteen hundred cases, three hundred and fifty dollars for each one hundred cases or fraction thereof; for the next one thousand cases, three hundred dollars for each one hundred cases or fraction thereof; and for all cases over twenty-five hundred, one hundred and fifty dollars for each one hundred cases or fraction thereof provided that the sum of five hundred dollars shall be added to the salary of each justice of a district court which has exclusive civil jurisdiction in cases where the damages do not exceed five hundred dollars. No justice shall be paid a salary less than a sum equal to one hundred and eighty dollars for each thousand persons residing in the district, as reported in the last federal census, and no justice shall receive a salary greater than twenty-one thousand dollars a year. The total cases reported annually from each district court to the judicial council shall be used in the computation of the salary of each justice as provided herein. The ad-

ministrative committee of the district and municipal courts shall compute the salaries as provided in this section and shall annually, in February, notify the local governing body of each city or town in which each district court is regularly located the amount to be paid the justice, special justice and clerk for an annual period commencing in July.

Sen. KOROMILAS: Mr. President, SB 237 would change the existing law with respect to the payment of special justices. At the present time, there is an alternative for the city or town, within its discretion, to pay the special justice \$20 a day or 30 percent of what the district court judge receives. The bill would change that and would require that every special justice get 30 percent of what the district court judge receives.

Amendment adopted.

Sen. SPANOS: Mr. President, may the record show that on this SB 237, I abstained from voting under Rule 42.

Ordered to third reading.

SB 238

relative to release from county jails and houses of correction. Ought to pass with amendment. Sen. Nixon for Judiciary.

AMENDMENT

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Effective Date. This act shall take effect immediately upon its passage.

Sen. NIXON: Mr. President, SB 238 was sponsored at the request of Clerk, Carl Randall of the Hillsborough County Superior Court. Two years ago, this Legislature, in its wisdom, provided that fellows incarcerated in the state prison would have a reduction in their sentence equal to one-third of their sentence for good conduct. The trouble with that situation was that no corresponding change was made with respect to sentences to county jails and houses of correction. SB 238 would merely bring those situations in line. In other words, a person sentenced to the county jail or the house of correction could also have his sentence reduced to two-thirds of his minimum for good conduct if, in the discretion of the keeper of the jail or the superintendent of the house of correction, his conduct merited such action. I might say that this bill was sub-

mitted in advance draft to Hillsborough County Attorney, James Connor and he is in agreement with its provisions because it will reduce the feeling of unfairness that has resulted on the part of some of those people incarcerated and some of those people in charge of these incarcerations because under the existing law, unless this bill passes, it is possible for a fellow to be sentenced to the state prison for a year and a day and yet serve a shorter period of time than a fellow sentenced to the house of correction for 9 months.

The bill makes sense and the Committee Report is unanimous, "ought to pass with amendment".

Amendment adopted. Ordered to third reading.

SB 256

establishing a public defender system for Hillsborough County. Ought to pass with amendment. Sen. Leonard for Judiciary.

AMENDMENT

Proposed by Committee on Judiciary

Amend the bill by striking out sections 2 and 3 and inserting in place thereof the following:

2 Public Defender. In Hillsborough county, notwithstanding the provisions of RSA 604-A, when the appointment of counsel is required for indigent defendants in criminal cases, the court shall appoint the public defender established by this act. The public defender for Hillsborough county shall be the New Hampshire Legal Assistance in accordance with the terms of a contract with said organization.

3 Contract. The attorney general, with the approval of the governor and council, is authorized to enter into a two-year contract with the New Hampshire Legal Assistance to establish an office of public defender and to provide legal services for indigent defendants in criminal cases in Hillsborough county, as may be required under the provisions of RSA 604-A.

Sen. NIXON: Mr. President, SB 256 was sponsored by Sens. Leonard and Porter. It would establish a public defender system for Hillsborough County as a part of the program. It was supported by the sponsors and Attorney George Bruno, Executive Director of the New Hampshire Legal Assistance. NHLA

is the federally funded legal services program which is successor to the Southern New Hampshire Legal Association, Inc. This bill was also supported by Edward Reichert who is Executive Director of the Tri-County Legal Services program.

This bill, if adopted, would provide, in Hillsborough County only, for the establishment of a public defender system whereby the Attorney General, with the approval of the Governor and Council, would enter into a two-year contract with the New Hampshire Legal Assistance to establish the office of public defender, to provide legal services for indigent defendants accused of crimes. At the present time, the federally funded Legal Services program is not eligible to represent indigents accused of crimes — only in civil matters. The compensation would be a charge upon the appropriation appropriated by the House and Senate for compensation of private attorneys now representing indigents assigned to them by the court. It is felt that the concept of providing a professionally staffed public defender program is meritorious enough to warrant trying it out on a one county basis, the general idea being to, at one and the same time, accomplish, if possible, a more professional and higher quality representation of the poor, on the one hand and on the other hand, a savings to the taxpayers because it is felt that at the present time, there is some excessive expense involved in the representation of the poor paid by state funds.

Sen. JACOBSON: Mr. President, I rise in support of SB 256. I had originally intended to bring down a bill which would establish a public defender system throughout the state, however, that is a very complex matter and needs considerably more study. But I feel that if this bill were to pass and become law, we would then have a very important pilot project with respect to establishing it on a universal basis throughout the state. Indeed, I have a resolution which would make further study of this on a universal basis.

I think one of the very basic reasons why a public defender system is a better system than our present system is that in the case of an indigent defendant, in a public defender system, he will get into the case at the beginning. Under our present system, the lawyer who is appointed by the court only gets into it after there has been considerable delay in the process. This would expedite the process of justice which I wholeheartedly support.

Sen. MORRISSETTE: Is the salary of the public defender included in the budget?

Sen. JACOBSON: As I understand Sen. Nixon, the pay of these persons would be taken from the present system of providing legal council.

Amendment adopted. Ordered to third reading.

CACR 28

RELATING TO: Conservation of Natural Resources and Scenic Beauty. PROVIDING THAT: The Policy of the State shall be the Acquisition and Preservation of Lands as State Nature and Historical Preserve. Refer to Judicial Council. Sen. Koromilas for Judiciary.

Sen. KOROMILAS: Mr. President, CACR 28 is a constitutional amendment that is patterned after the constitutional amendment that has passed the State of New York last year. Its main thrust is to preserve and conserve the natural resources and scenic beauty of the state. It talks about having the state purchase land for parks and what have you. The Committee felt that while this is a good bill, it should be sent to the Judicial Council because CACR 31 is the one which the Committee selected.

Resolution adopted.

CACR 31

RELATING TO: Establishment of an Environmental Bill of Rights. PROVIDING THAT: The rights of the people to enjoyment of their environment shall not be abridged. Ought to pass. Sen. Koromilas for Judiciary.

Sen. KOROMILAS: Mr. President, CACR 31 was introduced by Sen. Porter. It has been recommended by the Governor's Environmental Council. It talks about the right of every citizen to have clean air, pure water, protection against unreasonable use of land and other natural resources and reasonable enjoyment of the scenic, historic qualities of their environment. It also puts a duty on the part of every person to preserve, protect and maintain these particular qualities. While there is no provision with respect to noise, I am sure that when Sen. Porter testifies in the House, he will add the word, "noise". The Committee recommends its passage.

Division taken: Result: 19 Yeas, 0 Nays.
Adopted. Ordered to third reading.

SUSPENSION OF THE RULES

Sen. KOROMILAS: Mr. President, I move that the rules of the Senate be so far suspended so as to put CACR 31 on third reading and final passage at the present time.

Adopted.

THIRD READING AND FINAL PASSAGE OF CACR

CACR 31, RELATING TO: Establishment of an Environmental Bill of Rights. PROVIDING THAT: The rights of the people to the enjoyment of their environment shall not be abridged.

Division: Result: 22 Yeas, 0 Nays.

Adopted.

SJR 23

requesting the Legislative Study Committee to study and make recommendations relative to the Uniform Consumer Credit Code. Ought to pass. Sen. Koromilas for Judiciary.

(Sen. S. Smith in the Chair)

Sen. KOROMILAS: Mr. President, SJR 23 refers to the UCCC and was studied by a Joint Committee in the last interim session. We recommend that this ought to pass so that the Legislative Study Committee may study it further.

Resolution adopted. Ordered to third reading.

(President in the Chair)

HB 649

relative to the administration of the insurance laws. Ought to pass. Sen. Nixon for Judiciary.

Sen. NIXON: Mr. President, HB 649 has a general purpose as an administrative measure, to correlate and compile in one chapter all of the provisions now scattered throughout several chapters of our statutes, all of the statutes relating to the administration and organization of the insurance department of the State of New Hampshire. Section 1 through 16 of the bill generally provide for the organization of the department as it is now and the officials in the department. Sections 17 through 25 provide for administrative and hearing procedures with some changes which are thought to be in the interest of both the policy holder and a company in any particular situation in terms of

improved and more modern appellate procedures. Sections 26 and 28 relate to the requirements as to record keeping in the insurance department. Sections 29 and 30 relate to the fee schedule, similar to what it is now. Sections 31 to 35 provide for the premium tax applicable to insurance companies doing business in New Hampshire—no change in the present tax—which, by the way, raises some \$5 million for our state. This is what we might call a money-making department in our state in a sense that it raises this amount and costs some \$300,000 to operate. Sections 36 and 37 relate to examination procedures and the filing of annual reports by insurance companies which essentially complies with what they do now in accordance with the practices recommended by the National Association of Insurance Commissioners.

There are two basic advantages to HB 649. One is that it streamlines all existing laws relating to the insurance department and places them in one section where they can be easily found whether it be by a company regulated under the laws or by a person seeking to know what the insurance department is and can do. The second advantage is that the bill eliminates a department called the Insurance Advisory Committee which has, since 1969, had sort of a “looking over the shoulder” function in regard to the operation of the insurance department which neither the insurance department nor the people involved on the Committee very much thought was in the interest of the public or anybody. One representative of the United Life and Accident Insurance Company, the Chairman of this Advisory Committee being an employee of that company, thought this committee had no function and ought to be abolished.

There was no opposition testimony to the bill in the Senate hearing. One attorney for the United Life and Accident appeared and said that they had no objection to any of its provisions. There was another representative of the American Insurance Association there who said that he was there just to listen and not speak so I think you can take it from that that the industry itself does not see that this bill would detrimentally affect its operations. On the other hand, I think that the public in New Hampshire would be well served by all of the laws affecting the insurance industry and the operations of the insurance department being placed in one section rather than scattered

throughout our statutes. I think it is for this reason that the Senate Judiciary Committee comes to you with the report of "ought to pass" without any amendment.

Sen. FERDINANDO: Mr. President, I move that HB 649 be committed to the Committee on Banks, Insurance and Claims. I do so because as the title reads, relative to the administration of insurance laws, I do know there are several people who expressed an interest in this bill, expected to appear at a hearing in the Banks, Insurance and Claims Committee and would like to be heard on this bill.

Sen. SPANOS: Mr. President, I rise in opposition to the motion offered by Sen. Ferdinando and I do so because the measure before you is a compilation of the laws already existing in the statute books. There is no new content as far as I can see relative to any changes in the insurance law and I feel that it went to the proper committee in the first place when it was referred to the Judiciary Committee in view of the fact that it is a compilation of insurance laws. I see no reason why we should send it to the Insurance Committee and go through that rigamarole again and have the whole thing come back up for another battle later. I think it was adequately handled and sent to the proper committee.

Sen. FERDINANDO: Did you know that the Advisory Committee that was set up in the last session of this Legislature is abolished in this bill?

Sen. SPANOS: I was aware of it.

Sen. MORRISSETTE: Mr. President, I rise in favor of the motion so as to give an opportunity to further study this bill and judge it a little bit more.

Sen. POULSEN: Mr. President, I rise in favor of acting on this bill today. There is no reason to hold off bills because someone hasn't had the opportunity to read the material that was available. This is a good bill and should be voted on today.

Sen. TOWNSEND: Sen. Nixon, did I understand you to say that this bill, as it is now before us, contains no new regulations?

Sen. NIXON: The only change of any substance is the abolition of the Advisory Committee which, as I stated in my initial talk on this subject, did not have any objection from the

Chairman of the Advisory Committee who is an employee of an insurance company in this state because he thought it did not serve any good function.

Sen. TOWNSEND: Mr. President, I have no qualms about supporting this bill as long as I have some assurance that we are not changing any of the present insurance laws we have on the books at the present time. Because of the statement made by Sen. Nixon, I had a feeling there might be something there. Sen. Spanos said there was nothing and I just wanted to clear this up.

Sen. FERDINANDO: Mr. President, this being a very complex bill, I have seen in the past where unless the wording of the bill is studied carefully, adverse affects may result, therefore, I hope that the Senate will go along with my motion to commit this to the Committee on Banks, Insurance and Claims.

Question on recommitting HB 649 to the Committee on Banks, Insurance and Claims.

Roll Call requested by Sen. Ferdinando, seconded by Sen. Marcotte.

Yeas, Sens. Lamontagne, Townsend, Gardner, Leonard, Ferdinando, R. Smith, Morrissette, Brown, Marcotte.

Nays: Sens. Poulsen, S. Smith, Snell, Spanos, Nixon, English, Porter, McCarthy, Provost, Koromilas, Downing, Foley.

Result: 9 Yeas, 12 Nays.

Motion lost.

Question on ordering HB 649 to third reading.

Adopted.

SUSPENSION OF THE RULES

Sen. NIXON: Mr. President, I move that the rules of the Senate be so far suspended so as to permit HB 649 to be placed on third reading and final passage at the present time.

Sen. FERDINANDO: Mr. President, I urge the members of this body who may have some thoughts on this matter that it should be studied further to vote "no" on this motion.

Adopted.

Division taken: Result: 13 Yeas, 8 Nays.

Motion lost, two-thirds being necessary for suspension of the rules.

SJR 10

in favor of the estates of Elaine and Hank Chapin. Ought to pass. Sen. Spanos for Finance.

Sen. SPANOS: The case of Elaine and Hank Chapin is a tragic one.

In 1966, Elaine Chapin & Hank Chapin were killed in an automobile accident near Keene, N. H. The auto in which they were passengers struck a guard rail fence post and said rail post pierced the motor vehicle like an arrow and killed Mrs. Chapin and her 10-year-old son.

This particular guard rail post had been placed there by the N. H. Highway Department so as to guard against the hitting of a cement abutment which supported an overhead railroad tressel.

Mrs. Chapin left surviving her a husband (who apparently had abandoned her) and four minor children.

Attorney Arthur Olsen of Keene, counsel for the Chapins Estate (and a former State Senator from District #10) contended that the death of the two Chapins was due to the negligence of the state in placing the post there and in the particular construction of it. The guard rails of this type of construction are no longer utilized since that time.

Attorney Oleson could not, in behalf of the Chapins, sue the State of N. H. for negligence because of the State's immunity so he asked Senator Bradshaw to introduce a bill in the Legislature asking for compensation for wrongful death. Senator Bradshaw did this with Senate Joint Resolution No. 21 in the 1967 session.

It was referred to the Legislative Council and it postponed action and so Senate Joint Resolution #7 was introduced, passed the Senate & House and it read as follows:

CHAPTER 551.

JOINT RESOLUTION ESTABLISHING A FACT-FINDING PANEL.

WHEREAS, Senate Joint Resolution 21 of the 1967 session was referred to the legislative council on June 23, 1967 and

WHEREAS, the legislative council postponed action on said resolution pending action by the judicial council on certain related matters and

WHEREAS, the delay in the resolution of the question involved is causing hardship to several persons involved, now therefore be it

Resolved by the Senate and House of Representatives in General Court convened:

THAT a fact-finding panel consisting of three judges of the state be appointed by the speaker of the house and president of the senate, acting jointly, to investigate the facts relating to the automobile accident referred to in Senate Joint Resolution 21 of the 1967 session of the General Court. The fact-finding panel shall have the power to administer oaths and to subpoena witnesses. Said panel shall make a report to the speaker of the house and the president of the senate on or before May 15, 1969 which shall state to what degree, if any, the state is responsible for the damage and injuries sustained.

[Approved March 27, 1969.]

The President of the Senate and the Speaker of the House appointed Judge Bernard I. Snierston, Judge Gerald F. Giles and Judge William W. Treat, three eminent jurists of the State. The claim was heard in Room 305 at the State House on Friday, May 2, 1969 beginning at 10:00 a.m. and ending 6:30 p.m. Arthur Olson Jr. represented the claimants and Donald A. Ingram, Asst. Attorney General represented the State.

At said hearing, experts were called and witnesses testified. It came close to a full-fledged trial. After hearing all of the evidence and examining the pertinent law, the panel *unanimously* recommended that the State of N. H. *accept* liability for the deaths of Elaine and Hank Chapin and that an award in the total sum of \$45,000 be paid as compensation for the wrongful death of the two decedents.

The recommendations of the panel were incorporated in a bill passed the Senate and was killed in the House.

This resolution before you today is an effort to resurrect the measure. What it does is to recommend the payment of \$45,000 as follows: to Judge Snierson: \$152.21; Judge Giles: \$150.90; and Judge Treat: \$151.15; Arthur Olson Jr. \$10,554.00 for counsel fees and \$33,991.65 to the Welfare Department to be used for the education, care, and support of the minor children under supervision of the Sullivan County Probate Court.

Let me say that since 1966, the Chapin children have been living with an aunt in Newport. (That is how I became involved in this matter together with President Bradshaw.)

The Perrys have never received a single dime from the State in any shape, form or manner and they should be commended—but should they have to so be deprived for the children's support. Let me read from a Welfare report made in 1969 concerning the Perrys. (Read portion of report)

This then is the full picture of the Chapin matter.

I should point out that the appropriation called for is a charge on the highway fund and not on the General Fund of the state which should make our decision a little easier.

What is at stake here, Mr. President, is the word of the State of N.H. as a great sovereign commonwealth. It is the word of the Legislature that is also in question. We made a commitment to resolve this issue and we should keep that commitment no matter what. Others may have a significant credibility gap, but I do not choose the Legislature to follow suit. We are truly the *LAST COURT FOR RESORT* for the people of N.H. Let us keep faith with them.

Sen. SNELL: Mr. President, I rise in support of SJR 10 but with just one word of caution. I am concerned that the guard post might not have caused the accident in this particular case. I am concerned also that an individual in a professional field is receiving some \$10,000 but I do support this piece of legislation seeing that it will be taken from the highway fund. I do hope that this will help this family for the support of the children.

Resolution adopted. Ordered to third reading.

SB 173

establishing an Environmental Protection Division in the Office of Attorney General and making an appropriation therefor. Ought to pass with amendment. Sen. R. Smith for Finance.

AMENDMENT

Amend the bill by striking out all after section 1 and inserting in place thereof the following:

2 Additional Assistant Attorneys General. Amend RSA 7:16 (supp) as amended by 1957, 315:1; 1963, 209:1 1967, 413:1; 1970, 19:2; and 1970, 55:2 by striking out in line two the word "ten" and inserting in place thereof the following the word (eleven) so that said section as amended shall read as follows: 7:16 Assistant Attorneys General. The attorney general, subject to the approval of the governor and council, may appoint eleven assistant attorneys general, each of whom shall hold office for a term of five years. Any vacancy in such office may be filled for the unexpired term. An assistant attorney general may be removed only as provided by RSA 4:1.

3 Salary. Amend RSA 94:1-a (supp) as amended by striking out the line reading "Assistant attorneys general (10) 15,226 17,129" and inserting in place thereof a line reading (Assistant attorneys general (11) 15,226 17,129).

4 Appropriation. The sums of twenty-five thousand six hundred sixty-six dollars for fiscal year 1972 and twenty-five thousand three hundred five dollars for fiscal year 1973 are hereby appropriated to be expended by the attorney general in carrying out the provisions of this act as follows:

	1972	1973
1 Assistant attorney general	15,226	15,606
Permanent personnel		
1 legal steno II (labor grade 10)	5,450	5,699
Other personal services	500	500
Equipment		
Desks and chairs (2)	455	
Typewriter and stand	535	
Current expenses	1,500	1,500
Travel		
In-state	1,500	1,500
Out-of-state	500	500
Total	<u>\$25,666</u>	<u>\$25,305</u>

This appropriation shall be in addition to all other appropriations for the office of attorney general. The governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated.

5 Effective Date. This act shall take effect July 1, 1971.

Sen. R. SMITH: Mr. President, SB 173 establishes an Environmental Protection Division in the Office of the Attorney General. The original request was for two assistant attorney generals in order to enforce the Environmental Protection laws. We feel, as Sen. Porter feels, that this is one of the most important of the environmental package deals this year and that if any bill is to survive, this one should. There was very adequate testimony at the hearing as to the need for this and the Senate Finance Committee recommended it highly.

Sen. PORTER: Mr. President, I endorse the Finance Committee's actions and I hope that this action at least creates a core agency for the protection of the environment in the Attorney General's Office. One assistant attorney general is better than none. I assume the Senate has recognized that several other environmental bills which I presented and requested that they be put off or disposed of in other manners at this time. Hopefully, there will be sufficient funds to cover this very modest proposal.

Amendment adopted. Ordered to third reading.

SJR 9

in favor of John Dukette of Andover. Ought to pass with amendment. Sen. R. Smith for Finance.

AMENDMENT

Amend the resolution by striking out all after the resolving clause and inserting in place thereof the following:

That the sum of one thousand, nine hundred eighty-two dollars and fifty cents is hereby appropriated to reimburse Mr. John Dukette of Andover in full and final settlement for damage to his well caused by road salt. The Governor is authorized to draw his warrant on the highway fund for the sum appropriated by this resolution out of any moneys in said highway fund not otherwise appropriated.

Sen. TOWNSEND: Mr. President, SJR 9 has had almost as long a career in this body as SJR 10. I will not go into the de-

tails of it because I am sure the Senate has heard it discussed pro and con a number of times. Senate Finance did hold a hearing and did accumulate testimony from three people. They did testify that there was a water supply in Mr. Dukette's well at the time it was disturbed by the highway. For these reasons, the Senate Finance Committee is recommending passage of the bill at this time.

The ammendment makes the charge for the well on the Highway Department.

Sen. POULSEN: What is the amount involved?

Sen. TOWNSEND: \$1,982.50.

Sen. POULSEN: Mr. President, I move that the words, "inexpedient to legislate" be substituted for the words, "ought to pass with amendment". This is the same case that we heard a while back and I still believe that the State of New Hampshire is substituting a good artesian well for a very inferior driven well. I am concerned with the expense to the state and I hope that the Senate will bear with me and vote this inexpedient to legislate.

Sen. JACOBSON: Mr. President, I rise in opposition to the pending motion. As Sen. Townsend reported from the Finance Committee, three persons appeared with respect to this bill and offered testimony. The State Highway Department came and listened and did not oppose the bill. They presented the information that they had to the Finance Committee and the Committee studied the information which was presented. The fact of the case is that the Highway Department did not oppose the bill. The whole point of the matter is that as a result of the highway construction, his well was incapacitated. As was given in testimony to the Finance Committee, the Highway Department had, in fact, offered, at one time, to settle for \$1,000 or build a new well. The fact of the case is that they did not build a new well but only created an overflow so that the problem continued for the Dukette's. I am not going into any of the further details but I hope that you will vote against the present motion.

Sen. MORRISSETTE: Sen. Smith, can you explain why your Committee decided to grant this amount taking into consideration the value of the original well?

Sen. R. SMITH: Most of the testimony we had was from

Mr. Whittemore. His testimony was not given to the Senate Public Works Committee. I questioned the cost and the testimony brought out the fact that it cost \$1400 for the drilling and \$400 for an additional pump. We did not question the value of the old well as compared to the value of the new well. This was not a significant factor in our thinking. The important point was that a water supply had to be replaced and this was the cost of replacing that supply.

Sen. MORRISSETTE: I am concerned with replacing a \$200 point in the ground with a \$1700 well.

Sen. R. SMITH: The issue as far as we were concerned was the fact that Mr. Dukette's water supply was not adequate after the highway had been built but it had been adequate for a period of 25 or 30 years before the highway had been built.

Sen. LAMONTAGNE: Sen. Smith, was there any evidence offered that Mr. Dukette had a *well* prior to the time he purchased the property?

Sen. R. SMITH: Testimony was given that the water supply had been adequate for a period of 25 to 30 years prior to Mr. Dukette's owning the property.

Sen. KOROMILAS: Sen. Smith, isn't it true that for about a year or two the Dukette's did have an adequate well until it ran dry?

Sen. R. SMITH: I think that the supply of water was adequate for a period of time of more than two years. It did run dry after the highway went through.

Sen. KOROMILAS: After the changes were done by the Highway Department, is it not true that the well did run for a period of a year or two and then run dry?

Sen. R. SMITH: This is true, but I don't know what the period of time was. It was tapping the overflow from someone else's supply.

Question on substituting "inexpedient to legislate" for "ought to pass with amendment."

Motion lost.

Question on adoption of the amendment as offered by the Committee.

Amendment adopted. Resolution ordered to third reading.

SB 93

relative to workmen's compensation to state employees. Ought to pass. Sen. R. Smith for Finance.

Sen. S. SMITH: Mr. President, this bill is a bookkeeping bill. What it does is to set up a system in the Comptroller's Office whereby appropriations will be made in future years for workmen's compensation by departments. Under the existing system, workmen's compensation to state employees from many agencies are paid out of funds otherwise unappropriated. This is difficult in a situation where there may not be a surplus. What the bill does primarily is to set up a tighter and more adequate bookkeeping of these state funds and makes allowance for them in future appropriations. I hope the Senate will give favorable consideration to it.

Adopted. Ordered to third reading.

SB 255

increasing the compensation of the pharmacy board and the fees payable thereto. Ought to pass. Sen. McCarthy for Public Health, Welfare and State Institutions.

Sen. MCCARTHY: Mr. President, SB 255 increases the compensation of the pharmacy board from \$25 to \$50 and at the same time, increases retail fees from \$25 to \$50. Nobody appeared against the bill. Five people of the Association were strongly in favor.

Adopted. Ordered to third reading.

SB 253

returning to local officials authority to decide whether to fluoridate public water supplies. Inexpedient to legislate. Sen. Koromilas for Public Health, Welfare and State Institutions.

Sen. KOROMILAS: Mr. President, SB 253 touches upon the question of fluoridation in one's water. At the present time, the law provides that if there are to be fluorides put in the water, it must go to a referendum. This is what the present law is. If a city or town wants to go into fluoridation, there has to be a referendum and if the people in the majority want fluorides in their water, then it is done.

What this bill does is repeal the referendum requirement and allows the city council, water board commissioners, or selectmen, by majority rule, to institute the fluoridation of water in

their town or city. In other words, it would require, if this bill is passed, that the council, selectmen or water boards make the decision. At the present time, every person has the right to vote on this decision so the Committee felt this was a great departure from the present law so we voted it "inexpedient to legislate".

Resolution adopted.

SB 218

relative to internships in hospitals in this state. Refer to Legislative Study Committee. Sen. Koromilas for Public Health, Welfare and State Institutions.

Sen. KOROMILAS: Mr. President, the Committee listened to the evidence presented in connection with SB 218 and felt that this would require further study.

Resolution adopted.

Sen. Porter in the Chair

SB 194

to provide for medical treatment of minors without parental consent by licensed physicians. Inexpedient to legislate. Sen. McCarthy for Public Health, Welfare and State Institutions.

Sen. MCCARTHY: Mr. President, SB 194 provides that any minor over the age of 12 may voluntarily submit himself to a licensed physician for medical treatment at any municipal health department, state institution or facility, public or private hospital or in the office of a licensed physician without the consent of a parent, guardian or any other person in charge of the care and health of said minor. The bill had a public hearing and was sponsored by Sen. Jacobson. Sen. Jacobson's testimony dealt with concern over skiing accidents and the serious increase in venereal disease. Several people appeared to testify and nobody was in favor of the bill. Some people expressed serious concern. The Committee held Executive Session and recommend that it be made inexpedient to legislate.

Resolution adopted.

SJR 19

reimbursing the City of Portsmouth for the relocation of certain water lines and making an appropriation thereof. Inexpedient to legislate. Sen. Lamontagne for Public Works and Transportation.

Sen. LAMONTAGNE: Mr. President, SJR 19 reimburses the City of Portsmouth for relocation of certain water lines. This SJR had a sum of \$21,000. The Committee reported this bill as "Inexpedient to Legislate", because it was proven to us that the pipe wasn't the fault of the Highway Department or the City of Portsmouth. The pipe was put in under a guarantee and it is the responsibility of the supplier of the pipe to re-lay the pipe. This work was done and completed last year. The new law, SB 62, pertaining to utilities reimbursement became effective April 7 so Portsmouth and other cities and towns will be reimbursed on any new utilities construction as of April 7, 1971.

Sen. FOLEY: The City of Portsmouth has experienced many problems since the state commenced building the new high level bridge across the water from Maine to New Hampshire. . . . One of them has been a sewer problem. This bill intended to have the State reimburse the City of Portsmouth for a problem with sewer lines, the problem having been realized during the construction of the roads leading to the bridge and the City feels that this problem is caused by the construction. However, due to the lack of money that we are experiencing in the state, I realize that such a reimbursemnt is not feasible at this time. The evidence from the Highway Dept. was such that they did not feel that this was their fault and would not recommend that we receive this money. The Senate members that I have talked to also feel this way as did the Committee. I therefore bow to the majority in this instance. Thank you very much.

Resolution adopted.

SB 156

providing that thirty-six hour motor vehicle permits shall apply to purchases from out of state dealers. Inexpedient to legislate. Sen. Townsend for Public Works and Transportation.

Sen. POULSEN: Mr. President, SB 156 would allow people to buy a car out-of-state and by applying for a thirty-six hour permit that guaranteed the car was inspectable, to drive it back into New Hampshire. The bill was opposed by the Dealers' Association. We move that it be made inexpedient.

Resolution adopted.

SB 184

increasing the allowable weight of certain vehicles. Ought to pass. Sen. Poulsen for Public Works and Transportation.

Sen. LAMONTAGNE: Mr. President, first, I would like to state my qualifications for speaking on SB 184. I used to be the owner of the Lamontagne Express and I have hauled the heaviest loads during the year of 1947. The reason why I mention this is that I want the Senators to know that I am not in this business now and this bill has no effect on my equipment. The only thing that this bill does is increase the allowable weight of a certain vehicle, the present statute limits from 55,000 pounds, to 70,000 pounds. These are vehicles driven by three axles. It also includes cement mixers which are now on the highway. The Safety Department feels these vehicles would meet approval because of the breakage they have rather than others of the same weight with smaller break shoes.

Adopted. Ordered to third reading.

SB 177

relative to special motor vehicle registration numbers and the driver education fund. Ought to pass with amendment. Sen. Townsend for Public Works and Transportation.

Sen. TOWNSEND: Mr. President, I would like to explain the amendment first. There are two minor changes from the original bill. The first one is in line 7 where the words, "subject to budgetary requirements in RSA 9" are eliminated. This is done to prevent the transfer of money from driver education funds. The other change is in the last line on the first page of the bill. The drafting service used the words, "Director of Division of Motor Vehicles" and it should have been the "Commissioner of Safety". These are the only changes made by the amendment to the original bill.

The bill is designed to increase the funds for driver education by requiring a \$5 fee. It also includes a definite deadline for making applications. This was requested by town and city clerks because in the past, uncertainty has caused some hardships and hard feelings. It is felt that by setting the date by statute, it would eliminate some problems. The \$5 fee would be used in the same manner as the fee for initial plates is presently used and increases the available funds. The Safety Department has agreed to reduce the funds that are left over at the present time because the budget allows for so many students to take the driver education course. They don't necessarily use up all the funds that are accumulated. They propose to increase the per

pupil contribution on the part of the state from \$20 to \$40. The average cost presently is in the neighborhood of between \$55 and \$60 per pupil.

Sen. MARCOTTE: Mr. President, I move that SB 177 be indefinitely postponed. After looking at this bill, concerning the reference to the \$5 fee, I know of many people who have had these number plates. I have some serious doubts about this bill and therefore ask that it be indefinitely postponed.

Sen. KOROMILAS: If I had a certain number plate and I wanted to retain that same number for the following year and I put in a request for that particular number, would I have to pay a \$5 fee under this bill?

Sen. MARCOTTE: Yes, you would.

Sen. DOWNING: Mr. President, I rise in opposition to the pending motion. I think I share in Sen. Marcotte's concern but I think it is important to pass this legislation relative to the control of the money in the fund.

Sen. SPANOS: Mr. President, I move that SB 177 be made a Special Order of Business for Thursday, June 10 at 1:01. I arise and offer this motion because Sen. Marcotte has raised a point which I think he should have the opportunity to examine. I think Sen. Downing raised a point that ought to be examined. If there is a good bill here, we ought not to destroy it at this time without both these gentlemen having the opportunity to look into it further.

Sen. LAMONTAGNE: Mr. President, I rise in favor of making this a Special Order because I, too, feel that there are some things that ought to be investigated further and I intend to do some inquiring myself.

Adopted.

(Sen. Bradshaw in the Chair)

SB 186

increasing the radius of operation and the fee for special operation permits for certain heavy motor vehicles. Ought to pass. Sen. Poulsen for Public Works and Transportation.

Sen. LAMONTAGNE: Mr. President, under the present statute today, a special permit may be obtained for a distance of 25 miles. This mileage has been changed to 100 miles. The present

fee for this special permit is \$25. This fee would be doubled to \$50. The Public Works Department has made a survey and they have found some of these trucks coming from Canada and elsewhere with weights as much as 140,000 pounds. Under the special permit that is being introduced at this time, the weight would have to be approved by the Commissioner and the Director. By doing this, they would be able to regulate it to a load with five axles.

Sen. KOROMILAS: I note from what you have said that the radius is increased four times from 25 miles to 100 miles. In the consideration of the Committee, why is it being increased *four* times?

Sen. LAMONTAGNE: The reason for it is because there are trucks that are traveling a greater distance now from what they used to, so by having this 100 miles they can come from Maine to their New Hampshire destination.

Sen. KOROMILAS: What effect do these heavy loads have on our highways?

Sen. LAMONTAGNE: Right now, some of these trucks have been operating with a weight of 125,000 to 140,000 pounds and we have lost no bridges.

Sen. KOROMILAS: By doubling the fees, is that what the bill recommends?

Sen. LAMONTAGNE: Yes.

Sen. KOROMILAS: Would that take care of any damage to our roads?

Sen. LAMONTAGNE: I believe that if this bill passes, no change will occur in the condition of our highways. By having the permits approved by the Commissioner and Director, you would have more control over the roads.

Sen. JACOBSON: Did I hear you say in response to Sen. Koromilas that they are doing it illegally now?

Sen. LAMONTAGNE: Yes, definitely. In fact, the whole trucking industry is operating in New Hampshire illegally—90 percent of them.

Sen. JACOBSON: So this is another effort to make legal what is now illegal?

Sen. LAMONTAGNE: That is true.

Adopted. Ordered to third reading.

HB 806

providing permits to keep moose taken in other states and Canada. Ought to pass with amendment. Sen. Porter for Recreation and Development.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

providing for permits to keep moose taken in other states and Canada and providing for the protection of Canadian lynx.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Canadian Lynx Protected. Amend RSA 208 by inserting after section 1-c the following new section: 208:1-d Canadian Lynx. No person shall, at any time, shoot, hunt, take or have in his possession, any animal of the species known as Canadian Lynx or part of the carcass thereof, taken in this state. However, this section shall not apply to a person acting in protection of his person or property.

3 Effective Date. This act shall take effect sixty days after its passage.

Sen. PORTER: Mr. President, the amendment offered on HB 806 is to include protection of Canadian lynx. It was noted during the Committee hearing that lynx are becoming very rare in the state and a move to protect this species would be in order. For that reason, the Committee adopted these proposed amendments.

The thrust of the bill itself is to include moose in addition to deer as far as possession by the hunter. The Fish and Game Commission recommended this bill and it was introduced at their request.

Sen. KOROMILAS: What is the difference between a lynx and a bobcat?

Sen. PORTER: The main difference is slightly around the legs and the tufts around its ears.

Amendment adopted. Ordered to third reading.

SB 28

requiring inspection and certification of gasoline, oil, and petroleum storage facilities by certain fire officials, and reporting same to Water Supply and Pollution Control Commission. Ought to pass with amendment. Sen. Porter for Resources and Environmental Control.

AMENDMENT

Amend the bill by striking out the title and inserting in place thereof the following:

AN ACT

requiring inspection and certification of petroleum storage facilities and establishing a fee therefor.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Certification of Fuel Storage Facilities Required. Amend RSA 153 by inserting after section 26 the following new sections:

153:27 Certification for Storage. No commercial storage facility for gasoline, oil, or petroleum shall be operated in this state after January 1, 1972, unless such facility has been inspected, certified, and licensed by either the state fire marshal or his authorized officers. A report of such inspection and certification shall be filed annually with the water supply and pollution control commission.

153:28 Inspection. The state fire marshal or his authorized officers shall annually, or more often if necessary, make an inspection, and certify that said facilities conform to the requirements of this chapter and conform to all regulations promulgated pursuant to RSA 153:5 and RSA 153:14.

153:29 Licenses. The owner of any commercial storage facility which has been inspected and certified pursuant to the provisions of RSA 153:28 shall upon application to the state fire marshal be issued a license to operate, which shall expire annually on December thirty-first.

153:30 Fees. A fee of fifty dollars shall be paid to the state fire marshal's office and shall accompany each application.

153:31 Inventory by Towns. The selectmen of each town shall annually before August first, send to the state fire marshal a list of the commercial storage facilities for gasoline, oil, or petroleum, in their respective towns.

2 Effective Date. This act shall take effect sixty days after its passage.

Sen. PORTER: Mr. President, SB 28 was amended by the Committee after extensive hearings and discussions with various interested parties. The problems which appeared during the hearing were the words which were amended out—"associate advisor". The second objection was in the fee schedule. The fee schedule currently has been simplified to include all commercial storage facilities in the state. There are roughly 300 commercial storage facilities in this state and this fee schedule was ascertained, balancing this out against the need of the people in the State Fire Marshal's Office to perform this inspection. The Committee urges your adoption of this report.

Sen. JACOBSON: As I understand the amendment, every gas station in the state that has any kind of storage tank will now have to pay a \$50 fee?

Sen. PORTER: This refers to a commercial storage facility in a large group. It would not refer to smaller filling stations.

Sen. JACOBSON: How do you then distinguish the word "commercial"?

Sen. PORTER: In the area of storage, I think of the gasoline storage in terms of the distributor.

Sen. JACOBSON: Would it not be better if this bill had the word "wholesale" storage since I believe that is what you are after? I have had expressed to me by those who are in the ordinary retail gas station business, who have storage tanks, that they are fearful this may affect them.

Sen. PORTER: I would not be adverse to such an amendment.

Sen. JACOBSON: Mr. President, I move that SB 28 be made a Special Order of Business for Wednesday, June 9 at 1:02.

Adopted.

SB 216

to prohibit the operation of motor boats upon Turtle Town Pond in Concord. Ought to pass with amendment. Sen. Porter for Resources and Environmental Control.

AMENDMENT

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Motorboats Prohibited on Turtle Town Pond. Amend RSA 486 by inserting after section 10 the following new section: 486:11 Turtle Town Pond. On or after the date of the passage of this act, no person shall use or operate any motorboat or other boat equipped with an outboard motor or other mechanical power, for commercial or related purposes, with the exception of boats powered by wind, upon the waters of Turtle Town Pond in the City of Concord. Whoever violates any of the provisions of this section shall be fined not more than fifty dollars.

Sen. PORTER: Mr. President, SB 216, which was introduced by Sen. Jacobson and Sen. Smith on behalf of constituents, was amended by the Committee. The amendment includes the words, "for commercial or related purposes" after "outboard motor or other mechanical power". It was brought out during the hearing that certain individuals locally bring large inboard-outboard engines in boats for commercial demonstration purposes to this pond. The pond is not large and it was felt that this was disruptive to the wildlife and contributed some degree of pollution. The Committee tried to strike a happy compromise for all the fishermen in the area to enjoy this pond with their small outboards, yet to prohibit any commercial enterprise from operating on the pond. For that reason, the Committee amended it to prohibit commercial vehicles from the pond and urges your adoption.

Sen. JACOBSON: Mr. President, I move that SB 216 be made a Special Order of Business for Wednesday, June 9 at 1:03. In order not to create any more animosity than has already been created, I ask that this be postponed until tomorrow so that those who are particularly concerned may check to see whether this amendment is acceptable or not. I hope that the Senate will go along.

Sen. NIXON: Mr. President, I rise in opposition to the pending motion to make this a Special Order of Business. If we pass this bill, it will go over to the House where a hearing will be arranged for those who wish to express their opinion on the matter and make any adjustments.

Adopted.

HB 536

relative to the taking of land for state park facilities in the Town of Rye. Ought to pass with amendment. Sen. Porter for Resources and Environmental Control.

AMENDMENT

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Power of Acquisition Limited. Amend RSA 12-A by inserting after section 16 the following new section: 12-A:17 Park Land in Town of Rye. Notwithstanding any other provision of law to the contrary, the state shall not acquire, for the purpose of expanding or establishing any state park, any land in the town of Rye except land designated "tidal marsh" by the national cooperative soil survey unless a public hearing shall have been held in the Town of Rye.

Sen. PORTER: Mr. President, HB 536 deals with the taking of land for state park facilities in the Town of Rye. The Committee heard a great deal of testimony both in support and in opposition to this bill. However, the Committee felt, after weighing the evidence, that we were establishing a precedent which would require a referendum before this land could be acquired by the state. We worked out the amendment and moved that the bill ought to pass with this amendment. The amendment provides for a public hearing before the state does take any further land in the area. It is highly unlikely that the state can or will take any land in the near future, but nevertheless, they will be required to have a public hearing in the area to take sense of the people on this action. The Committee urges your favorable adoption of the amendment.

Amendment adopted. Ordered to third reading.

SB 219

relative to state employees' compensation. Inexpedient to legislate. Sen. Lamontagne for Ways and Means and Administrative Affairs.

Sen. PORTER: Mr. President, the purpose of SB 219, introduced by Sen. Spanos, was to allow state employees to voluntarily defer their compensation to a later time to take advantage, for retirement purposes, of income in a lower tax bracket. The Committee reviewed this and felt that, in today's day, here is another loophole opening up to take away certain taxes which must be made up. The Committee's review on this was unanimous that it be inexpedient and we urge your adoption.

Sen. SPANOS: Mr. President, I move that SB 219 be made a Special Order of Business for Wednesday, June 9 at 1:04. I do this reluctantly because I did not know that SB 219 was my bill when I saw it in the *Calendar* and I would like to explore the possibility of bringing it in with a different recommendation and check out a few more facts on it.

Adopted.

SB 260

to authorize the Labor Commissioner to set standards to assure safe and healthful working conditions for working men and women; to permit this state to maintain the highest degree of autonomy and at the same time take advantage of available financial assistance from the federal government; and to provide for research, information, education, and training in the field of occupational safety and health. Inexpedient to legislate. Sen. Porter for Ways and Means and Administrative Affairs.

Sen. PORTER: Mr. President, SB 260 had testimony from various interested parties. It is a very complicated bill. Most of the people who were heard at the hearing indicated that they had not had sufficient time to review the bill. However, during the hearing, it was pointed out and shown that the Labor Commissioner would achieve rather sweeping powers under this bill. These include using the services, the facilities, the personnel of any state agency; that he may employ experts to consult with organizations and that he may appoint an advisory commission. There was no appropriation for any of these employment powers that he was given. It establishes an occupational safety and health review commission of three members and there is no appropriation in the bill for this.

The Committee studied the bill carefully and recommended that it be made inexpedient to legislate at this time.

Sen. KOROMILAS: Mr. President, I move that the words,

“refer to Legislative Study Committee” be substituted for the words, “inexpedient to legislate”. SB 260 was introduced by me because of the Labor Commissioner. At the present time, federal legislation has been passed with respect to safety and this bill goes that avenue with respect to people who work in our factories. I think this is a good idea and much time has been put into it, therefore, I move that it be sent to the Legislative Study Committee for further study.

Sen. LAMONTAGNE: Mr. President, I rise in support of the motion. I feel that there is some value in this bill and should be studied further.

Adopted.

HB 545

permitting the conduct of beano games on Sunday and increasing the fee for beano licenses. Ought to pass. Sen. Lamontagne for Ways and Means and Administrative Affairs.

Sen. LAMONTAGNE: Mr. President, HB 545 increases the fees from \$10 to \$45. Also, the House amended the bill in section 3 by limitation on Sunday beano. In other words, the amendment limits playing beano from Noon to 11 P.M.

Sen. KOROMILAS: Is liquor allowed at beano games?

Sen. LAMONTAGNE: No, I believe not.

Sen. DOWNING: Don't you think that this type of thing should be up to the community and they should hold a referendum?

Sen. LAMONTAGNE: Senator, there was no opposition to this bill at the public hearing so I don't feel that it is necessary to refer the question back to the local communities.

Sen. SNELL: Mr. President, I rise in opposition to HB 545 and move that the words, “inexpedient to legislate” be substituted for “ought to pass”. I do so for two basic reasons. Number one, we have protected Sunday with a number of other pieces of legislation as far as permitting liquor stores to be opened for the public. I heard a great cry when Sen. Lamontagne introduced a bill concerning the four seasons recreational area. Yet, today, we are acting on a piece of legislation that will open up in our churches the opportunity to play beano, which is a direct means of gambling. I hope that the Senate will accept the substitution.

Sen. MCCARTHY: Mr. President, I rise in opposition to Sen. Snell's motion.

Sen. MORRISSETTE: Mr. President, I rise in opposition to the pending motion. I never regarded beano as gambling. This is entertainment for those who enjoy playing. Many people have this game as their only recreation and do not attend clubs. This also provides revenue for schools and churches.

Sen. LAMONTAGNE: Mr. President, I hope that this motion will be voted down. This is a good bill and the non-profit organizations will be able to run games for the enjoyment of all who play.

Sen. DOWNING: Mr. President, I move that HB 545 be made a Special Order of Business for Tuesday, June 15 at 1:01. I feel that I want to add an amendment to this bill. I don't have it prepared at this time and would like to have the opportunity to do so.

Sen. LAMONTAGNE: Could you give us an idea of the content of the amendment?

Sen. DOWNING: I want to have the local community have some say of whether they will permit beano games or not.

Sen. KOROMILAS: Mr. President, I rise in opposition to the pending motion. I think the law does give the cities and towns the right to vote for beano by referendum. It would seem time that if a city or town has voted by referendum to allow beano, I don't see the necessity of having a special referendum with respect to Sunday beano. For those reasons, I oppose the motion.

Sen. DOWNING: Are you aware that there is a difference of opinion as to whether a referendum has to come up annually or once to cover beano and also do you understand that if anyone did, in fact, vote for beano he would not consider Sunday?

Sen. KOROMILAS: I am not certain that there is a difference of opinion as far as I am concerned. I don't think a separate referendum is necessary.

Sen. DOWNING: Do you realize that passage of this bill at this time would make Sunday beano possible without the people having any prior say?

Sen. KOROMILAS: I think that the people have a say at the present time in this Legislature.

Question on making HB 545 a Special Order of Business.

Division: 13 Yeas, 6 Nays.

Motion carried.

SB 235

relative to the fee for a liquor license issued after April first. Ought to pass with amendment. Sen. Brown for Ways and Means and Administrative Affairs.

AMENDMENT

Amend the bill by striking out section 2 and inserting in place thereof the following new section:

2 Permitting the Sale of Liquor at State Owned Ski Areas. Amend RSA 178:5-b (supp), as amended, by striking out in line two the words "non-state owned" so that said section as amended shall read as follows: 178:5-b Ski Areas. The commission may issue a special license to any operator of a ski area, or his designee, which area is equipped by at least any one of the passenger tramway devices as defined in RSA 225-A:2, I (a) through (e) inclusive. Such special license shall permit the licensee to serve liquor and beverages to patrons in such rooms located at the said ski area as may be designated by the commission and only during the hours set by the commission for such service in restaurant cocktail lounges. The commission may grant, regulate, suspend or revoke said special license without affecting any other license or permit which may have been granted by said commission. The fee for any such special license shall be three hundred dollars a year.

3 Effective Date. This act shall take effect sixty days after its passage.

Sen. BROWN: Mr. President, the amendment to SB 235 would permit liquor of wine and beer only to be sold at ski areas.

Amendment adopted. Ordered to third reading.

FURTHER MESSAGE FROM THE HOUSE
 SENATE CONCURRENCE TO HOUSE
 AMENDMENT

SB 151

relative to reimbursement for damages cause by vandalism.

AMENDMENT

Amend section 1 of the bill by striking out the same and inserting in place thereof the following:

1 Reimbursement for Damages. Amend RSA 572 by inserting after section 50 the following new section: 572:51 Liability for Damages. Whoever violates any provisions of this chapter, may in addition to any other penalty provided herein, be ordered to make restitution for any property damage caused by committing such offense.

Sen. NIXON moved that the Senate concur with the amendment as offered by the House.

Adopted.

COMMITTEE OF CONFERENCE REPORT

The committee of conference to which was referred HB 126 'An Act extending the good samaritan law to certain rescue and ambulance squads' having considered the same report the same with the following recommendations:

That the Senate recede from its position in adopting its amendment to the bill, and

That the House recede from its position of nonconcurrency with the Senate amendment, and

That the House and Senate each pass the bill as passed by the House.

Conferees on the part of the House:

Rep. Trowbridge

Rep. Cate

Rep. Theriault

Conferees on the part of the Senate:

Sen. Nixon

Sen. Leonard

Sen. NIXON moved that the Senate adopt the Committee of Conference Report and spoke on the motion.

Adopted.

COMMITTEE OF CONFERENCE REPORT

The committee of conference to which was referred HB 106, 'An Act to clarify the definition of subdivision' having considered the same report the same with the following recommendation:

That the Senate recede from its position in adopting its amendment, and

That the House recede from its position of nonconcurrency with the Senate amendment, and

That the Senate and House each adopt the following amendment to the bill:

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Definition of Subdivision for Sewage Disposal Purposes. Amend RSA 149-E:2, VIII (supp) by striking out said paragraph and inserting in place thereof the following: VIII. "Subdivision" means the division of a tract or parcel of land into two or more lots, tracts, or parcels for the purpose, whether immediate or future, of sale, rent, lease, building development, or any other reason; provided, however, that sale or other conveyance which involves merely an exchange of land among two or more owners and which does not increase the number of owners, and on which no sewage disposal system is to be constructed shall not be deemed a subdivision for the purposes of this chapter. Without limiting the generality of the foregoing, subdivision shall include re-subdivision, and, in the case of a lot, tract or parcel previously rented or leased, the sale, condominium conveyance, or other conveyance thereof. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under this chapter.

2 Definition of Subdivision for Zoning. Amend RSA 36:1, VIII by striking out said paragraph and inserting in place thereof the following: VIII. "Subdivision" means the division of a lot, tract, or parcel of land into two or more lots, plats,

sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under this chapter.

3 Effective Date. This act shall take effect upon its passage.

Sen. Jacobson

Sen. Marcotte

Conferees on the Part of the Senate

Rep. Fuller

Rep. Kopperl

Rep. Mayhew

Conferees on the Part of the House

Sen. JACOBSON: Mr. President, the original amendment placed on HB 106 attempted to parallel the subdivision regulation in that area of the statute, Chapter 147 with regards to the Water Pollution Control Commission. However, after a Committee of Conference, we found that it was impossible to do so that the Committee withdraw the Senate amendment but we did adopt one sentence to the present statute with regards to subdivision regulation. That sentence is that whenever there are a series of owners in a tract of land they decide to divide among themselves, that tract of land shall be considered as a subdivision under the statutes.

Adopted.

SPECIAL ORDER OF BUSINESS AT 1:01

HB 669

to eliminate the blood test requirement for barbers and hairdressers. Ought to pass with amendment.

The CHAIR would state that the Committee has withdrawn their amendment and has submitted a new amendment.

Sen. GARDNER: Mr. President, HB 669 eliminates the blood test requirement for barbers and hairdressers. It amends two sections, however, eliminating the requirement to have a test for tuberculosis. The Committee, seeing that this is a very infectious disease, felt that this should not be eliminated. They

have to renew their license July 1 so we have amended this to take effect upon passage so they will not require two examinations and it can be done when they renew their licenses.

RECESS

Sen. NIXON: Mr. President, I move that HB 669 be made a Special Order of Business for Wednesday, June 16 at 1:01. I had a call from a constituent about this and would like to study the amendment further in order to inform him and myself of its contents.

Adopted. SB 669 made a Special Order of Business.

SPECIAL ORDER OF BUSINESS FOR 1:02

HB 199

to permit a legal voter who is registered as a member of a party to re-register as not being a member of any party. Ought to pass. Sen. Jacobson for Executive.

Sen. JACOBSON: Mr. President, HB 199 is the same as SB 16 of the last session which passed the Senate. What HB 199 does is to allow an individual who is now registered as a member of the Prohibition Party, the American Socialists Party, the Republican Party or the Democratic Party to regain his or her status as an unaffiliated person. At the present time, one can go from one party to another vis-a-vis registration, but it cannot be done as long as that individual lives in the same community. What HB 199 does is to grant that possibility as long as it is requested 90 days before a primary.

Sen. SPANOS: Mr. President, I rise in support of HB 199. I would rather see this measure a lot broader than the bill encompasses at the present time, but I think that will come in due time. The bill is a step in the right direction in reforming our election process. It will open the door for many people to more actively participate in our primaries. I commend the House and the Senate Committee that heard this bill and are coming in with this measure, "ought to pass".

Sen. NIXON: Mr. President, I rise in favor of the bill. I think this bill will do much to reform our election procedures. I also commend the astute Committee for recommending its passage.

Sen. JACOBSON moved the following amendment:

Amend RSA 56:40 as inserted by section 1 of the bill by inserting after paragraph II the following paragraph:

III. Notwithstanding any provision of paragraphs I or II to the contrary, no person who has voted in a primary may thereafter on the day of said primary change his party registration or change his registration so that he is registered as a member of no party.

Sen. JACOBSON: After HB 199 came on the *Calendar* as "ought to pass", it was pointed out to me by some supervisors of the checklist that as the bill is written, it would be possible for a person to go in and vote on a primary on, let's say, a Republican ticket, and then go out to the supervisor and request that he go back to unaffiliated status on the same day. This would create a great deal of chaos for supervisors of the checklists. This amendment prohibits one from voting in a primary then coming out and changing status the same day.

Amendment adopted. Ordered to third reading .

RECONSIDERATION

Sen. DOWNING: Mr. President, I move reconsideration on the motion whereby HB 545 was made a Special Order of Business for June 15. The reason for this reconsideration is that I feel the amendment which I had thought was necessary is now unnecessary. After reading the statute and the amendment carefully, I was misled by the testimony that a community did not have a say in the matter. This provision is within the statute and only a community wishing to have beano on Sunday will have it. Therefore, I feel we can act on it at this time.

Adopted. Reconsideration prevails.

Sen. SNELL withdrew his motion to make HB 545 "inexpedient to legislate" and substitute "ought to pass."

Question on ordering HB 545 to third reading.

Adopted.

SPECIAL ORDER OF BUSINESS FOR 1:03

HB 733

relative to operating snow traveling vehicles in the vicinity of ice fishermen. Ought to pass. Sen. Lamontagne for Public Works and Transportation. (Requested by Sen. Koromilas)

Sen. KOROMILAS: Mr. President, I requested the Special Order with respect to HB 733. The only problem I had with the bill was that if a person owned property on the shoreline and had a snowmobile and wanted to go on the lake, he had to stay 150 feet away from any bob house. I have spoken to Sen. Poulsen with respect to this and he tells me that this problem does not arise and I think he will explain it.

Sen. POULSEN: Mr. President, I explained this bill yesterday and I did have a little difficulty because there was a blurr in my copy. The way the bill is written the punch line is "entering or leaving the ice". No matter how that is defined, it automatically gives 150 foot perimeter as a pure no-man's land where this bob house law does not apply. I hope that this is included in the testimony because I think it is the interpretive line of the whole bill. I think the bill should pass. It eliminates its own problem. It doesn't do anything about trespass. It simply makes 150 foot perimeter on the initial ice of the pond.

Adopted. Ordered to third reading.

ANNOUNCEMENT

Albert E. Gauthier, official State House Guide, reports that more than 6,000 school youngsters have been given a guided tour since the legislative session opened in January.

Sen. SPANOS moved the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock.

Adopted.

LATE SESSION

Third reading & final passage of bills & resolutions

Sen. SPANOS moved that the following listed bills and resolutions be hereby each read a third time, bills by their titles only and resolutions by their captions only, and that each of said listed bills and resolutions be hereby passed.

HB 649, relative to the administration of the insurance laws.

SB 204, providing for the payment of interest on real estate tax payments paid by mortgagors to banking institutions.

SB 102, providing that school districts may in borrowing include the cost of planning for construction.

SB 65, providing that law enforcement officers shall be paid for time spent in court.

SB 169, relative to the special elections of a mayor.

HB 275, authorizing towns to make by-laws relating to hazardous pits.

SB 53, providing for a monitoring program of and the preservation of the ledges on Profile Mountain and making appropriations therefor.

SB 236, to abolish the so-called "locality rule" in judicial matters involving professional malpractice suits.

SB 239, providing that irreconcilable differences shall be the sole grounds for divorce and eliminating the fault concept of divorce.

SB 227, providing for equitable actions against polluters of the air, water and other natural resources of the state.

SB 237, relative to salaries of special justices of the district courts.

SB 238, relative to release from county jails and houses of correction.

SB 256, establishing a public defender system for Hillsborough County.

SJR 23, requesting the Legislative Study Committee to study and make recommendations relative to the Uniform Consumer Credit Code.

SJR 10, in favor of the estates of Elaine and Hank Chapin.

SB 173, establishing an environmental protection division in the Office of the Attorney General and making an appropriation therefor.

SJR 9, in favor of John Dukette of Andover.

SB 93, relative to workmen's compensation to state employees.

SB 255, increasing the compensation of the pharmacy board and the fees payable thereto.

SB 184, increasing the allowable weight of certain vehicles.

SB 186, increasing the radius of operation and the fee for special operation permits for certain heavy motor vehicles.

HB 806, providing for permits to keep moose taken in other states and Canada and providing for the protection of Canadian lynx.

HB 536, relative to the taking of land for state park facilities in the town of Rye.

SB 235, relative to the fee for a liquor license issued after April first.

HB 199, to permit a legal voter who is registered as a member of a party to re-register as not being a member of any party.

HB 733, relative to operating snow traveling vehicles in the vicinity of ice fishermen.

HB 545, permitting the conduct of beano games on Sunday and increasing the fee for beano licenses.

CACR 31, RELATING TO: Establishment of an Environmental Bill of Rights. PROVIDING THAT: The rights of the people to the enjoyment of their environment shall not be abridged. (Passed under suspension)

Motion adopted.

Sen. Marcotte moved the Senate adjourn at 6:57 P.M.

Adopted.

*Wednesday**9Jun71*

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Senate Chaplain, Rev. William L. Shafer.

Our Father in heaven; holy is your name. May your kingdom come, may your will be done on earth as it is in heaven. Give us today the food we need. Forgive us what we owe to you, as we have also forgiven those who owe anything to us. Keep us clear of temptation, and save us from evil. For yours is the kingdom and the power and the glory forever. Amen.

("The Lord's Prayer", a contemporary version.)

Pledge of Allegiance was led by Sen. Marcotte.

INTRODUCTION OF SENATE BILLS

First, second reading and referral

SB 317, to repeal charters of certain corporations. (Smith of Dist. 3 — To Judiciary.)

SB 318, establishing a water resources and water quality department and providing for waste disposal facilities. (Porter of Dist. 12 — To Resources and Environmental Control.)

SJR 35, establishing a commission to study the restructuring of the Tax Commission. (Smith of Dist. 3 — To Finance.)

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 400, providing for an increase in the motor vehicle road tolls. (Public Works and Transportation)

HB 686, to provide that New Hampshire residents sixty five years of age or over shall receive free lifetime hunting and fishing licenses. (Recreation and Development)

HB 850, clarifying the powers of sheriffs and police officers. (Executive Departments, Municipal and County Governments)

HB 898, to reduce the terms of office of members and the membership of the Nashua Board of Education. (Education)

HB 899, providing for aldermanic confirmation of certain appointments made by the Mayor of Nashua. (Executive Departments, Municipal and County Governments)

HB 911, relative to reporting neglected and abused children. (Public Health, Welfare and State Institutions)

HB 919, exempting certain municipal water companies from classification as public utilities. (Executive Departments, Municipal and County Governments)

HB 933, amending the tax on meals and rooms. (Ways and Means and Administrative Affairs)

HB 956, changing the date for the regular meetings of the board of the Union School District in Concord. (Education)

HB 978, relative to the repair of faulty private sewage systems. (Resources and Environmental Control)

HJR 11, to make additional appropriation for the fiscal year ending June 30, 1971 for counsel fees for indigent defendants. (Finance)

RECONSIDERATION

Sen. PORTER: Mr. President, I move that the Senate reconsider its actions whereby it non-concurred with the House amendment on SB 163, prohibiting dumping materials from out-of-state. I had the opportunity to review and understand the amendments. I agree, as does the sponsor, with the House amendment and we would like to concur.

Adopted.

Sen. PORTER: Mr. President, I move that the Senate concur with the House adopted amendment to SB 163.

(See HJ 8 June 71 for amendment)

Adopted.

SENATE CONCURRENCE TO HOUSE
AMENDMENT

SB 123, relative to enabling local municipalities to appropriate funds for assistance to the aged.

(See HJ 8 June 71 for amendment)

Sen. JACOBSON moved concurrence.

Adopted.

SENATE CONCURRENCE TO HOUSE
AMENDMENT

CACR 6, RELATING TO: Voting Age and Qualification as to age in holding Office. PROVIDING THAT: Eighteen Years Olds may Vote but no Person under Twenty-One Years of Age may hold any Elective Office.

(See HJ 8 June 71 for amendment)

Sen. NIXON moved concurrence.

Adopted.

SENATE NON-CONCURRENCE TO HOUSE
AMENDMENT

CACR 18, RELATING TO: the Limitation of Payment of Mileage to Legislators. PROVIDING THAT: Legislators may be paid Mileage for Regular Sessions for no more than Sixty Days in any one year and for no more than Ninety Days in any Biennium.

(See HJ 8 June 71 for amendment)

Sen. NIXON moved non-concurrence and that a Committee of Conference be established.

Adopted.

The Chair appointed as conferees on the part of the Senate Sens. English and Downing.

REQUEST FOR COMMITTEE OF CONFERENCE

On motion from Sen. Porter, the Senate voted to accede to House request for Committee of Conference on:

HB 536, relative to the taking of land for state park facilities in the Town of Rye.

The Speaker appointed as members of said Committee on the part of the House, Reps. Greene, Hammond and Oleson.

The President appointed as conferees on the part of the Senate, Sens. Porter and Foley.

SENATE CONCURRENCE TO HOUSE AMENDMENT

SB 96, relative to the interest on deposits in credit unions.

(See HJ 8 June 71 for amendment)

Sen. FERDINANDO moved concurrence.

Adopted.

ENROLLED BILLS AMENDMENT

HB 703, providing that no person shall furnish to another person a license issued to himself.

AMENDMENT AN ACT

relative to use of clam, oyster, lobster and crab licenses
and relative to taking of red crabs.

Adopted.

HOUSE ADOPTION OF ENROLLED BILLS AMENDMENT

HB 703, providing that no person shall furnish to another person a license issued to himself.

HOUSE ADOPTION OF COMMITTEE OF CONFERENCE RECOMMENDATION

HB 106, to clarify the definition of subdivision.

HB 126, extending the good samaritan law to certain rescue and ambulance squads.

HOUSE NON-CONCURRENCE

SB 15, raising the population figure of cities that require sealer of weights and measures and providing an appropriation for the administration of the weights and measures act.

SB 157, providing that towns shall pay for damage of livestock caused by any canine.

HOUSE CONCURRENCE

SB 159, abolishing the state rifle range commission.

SB 164, relative to license for sale of real estate where there are unknown heirs or heirs under disability, or heirs whose whereabouts are unknown.

SB 222, clarifying the law concerning the merger of insurance companies.

HOUSE CONCURRENCE TO SENATE AMENDMENTS

HB 199, to permit a legal voter who is registered as a member of a party to re-register as not being a member of any party.

HB 806, providing for permits to keep moose taken in other states and Canada and providing for the protection of Canadian lynx.

HB 666, permitting eighteen year olds to entertain in lounges and dining rooms.

COMMITTEE REPORTS

SB 145

relative to construction attachments. Ought to pass with amendment. Sen. Lamontagne for Public Works and Transportation.

AMENDMENT

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Construction Loans. Amend RSA 384 by inserting after section 16-b the following new section: 384:16-c Construction Loans. Any funds loaned for the purpose of financing construction or reconstruction of real estate may, by agreement of the parties to loan, be paid either wholly or in part to the suppliers of goods or labor or both upon presentation by such supplier of an invoice for such goods or labor accompanied by an affidavit from the borrower that such goods have been supplied, all such

work has been completed and that sub-contractors and suppliers of material to such supplier of goods or services have been paid for their share of the work for which such payment is requested.

3 Effective Date. This act shall take effect sixty days after its passage.

Sen. LAMONTAGNE: Mr. President, SB 145 was introduced by Sen. Morrisette. The banks came in the last minute with an amendment. The only thing that this amendment does is to amend RSA 384 with regard to construction loans. The sponsor approves of this amendment and I yield to Sen. Morrisette.

Sen. MORRISSETTE: I sponsored this bill to protect the working men who have been subject to bankruptcy and due to this, would not get paid for their labor. This bill would make it possible for the laborer to get paid for his services. The Committee is in favor of this bill and amendment and I hope that the Senate will vote favorably.

Sen. POULSEN: Mr. President, I rise in favor of this amendment. It was objectionable to the banking industry because it put these liens ahead of bank mortgages. Under the terms of this amendment, that proposition is settled and we are in favor of the bill as amended.

Amendment adopted. Ordered to third reading.

SB 183

relative to the allowable width of ready-mix cement vehicles. Ought to pass with amendment. Sen. Lamontagne for Public Works and Transportation.

AMENDMENT

Amend the bill by striking out the title and inserting in place thereof the following new title:

AN ACT

relative to the allowable width of certain vehicles.

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Width Increased. Amend RSA 263:65 as amended by striking out in lines two, twelve and thirteen the words "ninety-

six", and inserting in place thereof the words (one hundred and two), so that said section shall read as follows:

263:65 Width and Length. No vehicle whose width including load is greater than one hundred and two inches, or whose length including load is greater than thirty-five feet and no combination of wheels coupled together whose total length, including load is greater than fifty-five feet shall be operated on the highways of this state. Provided, however, that the provisions of this section relative to length shall not apply to vehicles transporting poles, logs, timbers or metal, when actually so employed, and that in determining width there shall be excluded six inches of any increase in width due to changing to low pressure tire equipment from other tire equipment. Provided further, that a vehicle may be operated on the highways of this state transporting a load of loose hay or loose fodder when the width including such load is greater than one hundred and two inches so long as the width of said vehicle without said load does not exceed said one hundred and two inches. Provided further, that a motor bus which has an overall length, inclusive of front and rear bumpers, in excess of thirty-five feet, but not in excess of forty feet and the load on any axle not in excess of the limits provided in RSA 263:61, may be operated on the highways of this state. Motor Vehicles, tractor and semi-trailer units exclusively engaged in the transportation of motor vehicles may attain a maximum length of fifty-five feet excluding the usual or ordinary bumper overhang of the transported vehicle.

Sen. LAMONTAGNE: Mr. President, SB 183 asks for additional widths on trucks. Right now, the law stipulates 96 inches. The trucking industry is now asking for 102 inches. This bill has been amended because at the time when this bill was introduced, it was done so for cement mixers due to the fact that they are large trucks and their widths exceed 96 inches. Many of the trucks which I measured exceeded the allowable width. This amendment asks for the allowable width to be 102 inches for *all* trucks. If this amendment is not passed, many trucks will have to be taken off the highway because they are not operating legally in this state.

Amendment adopted. Ordered to third reading.

SB 105

relative to the issuance of property, liability and automo-

bile insurance. Majority: Ought to pass. Sen. Nixon for Banks, Insurance & Claims.

Minority: Ought to pass with amendment. Sen. Ferdinando for Banks, Insurance & Claims.

AMENDMENT

Amend the title of said bill by striking out the same and inserting in place thereof the following:

AN ACT

relative to the cancellation of property and
automobile insurance

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Cancellation. Amend RSA 407 by inserting after Section 23 the following new section: 407 23-a Cancellation. No insurer shall cancel a policy of insurance insuring against loss or damage to real property which is used predominantly for residential purposes, and which consists of not more than four dwelling units, or which insures against loss or damage to personal property owned by natural persons except personal property used in the conduct of a commercial or industrial enterprise, unless the insurer shall deliver or mail, to the named insured at the address shown in the policy a written notice of cancellation. Such notice shall state the date, not less than forty five days after the date of such mailing or delivery on which such cancellation shall become effective, except that such effective date may be ten days from the date of mailing or delivery; when the policy is being cancelled or not renewed for nonpayment of premium. This section shall not apply to temporary insurance issued under section 6 but shall to the extent applicable be in lieu of the cancellation provisions of section 22.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Definition. Amend RSA 412 by inserting after section 18-b the following new section: 412:18-c Definition. Accident as used in any automobile insurance rate manual means any occurrence during the experience period involving the applicant, or any operator of the automobile currently a resident in the same household while operating any private passenger type au-

tomobile which resulted in bodily injury in excess of fifty dollars or death or which resulted in damage to any property, including his own in excess of two hundred dollars.

Amend the bill by striking out section 3 and inserting in place thereof the following:

3 Refusal to Renew. RSA 417-A:3 (supp) as inserted by 1969, 487:1 by striking out said section and inserting in place thereof the following: 417-A:3 Cancellation; Refusal to Renew; Insufficient Grounds. No insurer shall refuse to renew a policy of automobile insurance on any person with at least two years' driving experience solely because the insured must make a financial responsibility filing pursuant to RSA 268 or solely because of the age, residence, race, color, creed, national origin, ancestry, marital status or lawful occupation. Including the military service, of anyone or solely because another, insurer has refused to write a policy, or has cancelled or has refused to renew an existing policy in which that person was the named insured.

Amend the bill by striking out section 5 and inserting in place thereof the following:

5 Penalty. Amend RSA 417-A:10, I (supp) as inserted by 1969, 487:1 by striking out said paragraph and inserting in place thereof the following; I. The intentional failure by an insurer to comply with any section of this chapter, or rules, regulations, and orders issued pursuant thereto may subject an insurer to a fine not exceeding five hundred dollars in the discretion of the insurance commissioner, or suspension or revocation of such insurers license, or both.

Sen. FERDINANDO: Mr. President, SB 105 was introduced by Sen. Lamontagne. It has some very good intentions. All the amendment does is to make some corrections. What we have done here is we accepted everything that Sen. Lamontagne was interested in. It provided a penalty for failure by insurance to comply, subject to a \$500 fine. We re-worded a particular section by saying "the intentional failure by an insurer to comply with any section of this chapter . . ." If there is a clerical error, it will not result in an automatic \$500 fine. We have taken away the home owners and fire portion of the bill. We have done so because at the hearing, there did seem to be sufficient evidence to justify having a cancellation due to constant offenders but the company has to wait until the

policy expires to cancel because such cases would be a great risk.

Sen. LEONARD: Mr. President, the Committee was divided on this bill, however, the majority of the members agree that the bill as written is the bill that should be passed. There were a few criticisms of the bill, but in my opinion they were minor.

Sen. LAMONTAGNE: Mr. President, I introduced SB 105 for the reason that insurance companies have been ignoring the law that we now have on the books. We have a law that says that insurance companies can be imposed with a penalty of \$500 if they don't comply with the law. Many people don't know who to contact in the case of a cancellation nor are they aware of the proper procedures to follow in such a case. I have brought complaints to the attention of the Insurance Commissioner concerning some of my constituents who were cancelled. One such instance concerned an individual who had been cancelled who did not have any accidents or violations at all but received two cancellations from the same company because of his age. The policy holder should be protected against unwarranted cancellation by placing this \$500 fine on the company.

Under the present statute, insurance companies may cancel a fire policy with a five day notice. Under this type of arrangement, a person may be away on a vacation and come home to find the notice of cancellation after the five days have elapsed and shortly after, have his house burned down. There is nothing that individual can do. Five days is not a reasonable time, that is why forty-five days have been put in — for the protection of the people who are away from home.

Sen. POULSEN: I reluctantly rise to speak against the objections of Sen. Lamontagne. I think the amendment does everything he wants and only adds the word, "negligent", which is only proper to guard against the possibility of a clerical error. I am in favor of the amendment.

Sen. NIXON: Mr. President, I rise in support of SB 105 as introduced by Sen. Lamontagne. The bill in original language would prohibit arbitrary cancellation and would require the forty-five day notice. Having studied both the proposed amendment on its merits and the original language of

SB 105, I feel that if we are talking to any degree of protecting the public, we should pass SB 105 as originally written.

Sen. FERDINANDO: There was testimony given at the hearing when the question was asked of the need for home owners' policies in this bill. Do you remember the answer from the Commissioner concerning how many complaints he received in the last year or two?

Sen. NIXON: I believe he said fifty. He also stated that statistics show that usually not more than about 5 percent of the people who felt that they had been wronged had lodged complaints therefore, on the basis of that statistic, 1,000 people had been wronged in the last year. I would say that we had an emergency situation.

Sen. FERDINANDO: This is not so. When the Insurance Commissioner was questioned as to whether or not he had investigated the justifiable reasons for the cancellations that he had not had time to look into the merits of whether the companies were right — whether these were negligent offenders that should be cancelled — that no underwriter in the world would want.

Sen. NIXON: I don't recall his answer nor do I recall that specific question. It seems to me that no company who is doing business legitimately and taking care of their policyholders reasonably would be harmed by this bill if passed. All this does is to prohibit *arbitrary* cancellation and refusals to renew and other practices of that nature. If some of the testimony I heard at the hearing on behalf of the bill is true, then no company is acting unreasonably now, so therefore, no company can be hurt by the bill, but nonetheless, the law would be there to be used as a tool on behalf of the public if some company were carrying on unfair practices.

Sen. FERDINANDO: Mr. President, here we have a situation where we are asking for legislation forcing companies to write everybody. They would not be allowed to refuse to write and at the same time, the habitual offender will be forced to stay on the books of a company which, in essence, can very well lead to the increase in rates. I would also like to speak from the agents point of view — if you accepted the Majority Report and not the Minority Report, you would make my life a lot easier. As far as the fairness and the merits

of the bill, I would hope that the members here would take into consideration that there have been fifty complaints that have never been investigated. This would only take two days to do so to see whether or not there was any validity in the complaints. I hope that the members will vote along with the Minority Report.

Sen. LAMONTAGNE: Mr. President, I feel that SB 105 is of great importance to the people of New Hampshire, especially to our senior citizens. I feel that if you adopt the amendment, you will kill the bill.

Sen. LEONARD: Sen. Ferdinando, at the hearing, do you remember the testimony of the Insurance Commission that in 1970, there were 235 inquiries relative to the cancellation of insurance and in the first four months of 1971, there were 130 inquiries?

Sen. FERDINANDO: There were inquiries related to insurance — not just fire and homeowners, but also automobile.

Sen. NIXON: As a courtesy to my fellow senator, Sen. Ferdinando, I move the adoption of the amendment, reserving the right to oppose the amendment.

Sen. FERDINANDO: I urge my colleagues to vote in favor of the amendment.

Question on Minority Report.

Division: 12 Nays, 2 Yeas. Motion lost.

Question on Majority Report, Adopted. Ordered to third reading.

SUSPENSION OF THE RULES

Sen. LAMONTAGNE: Mr. President, I move that the rules of the Senate be so far suspended so as to put SB 105 on third reading and final passage at the present time.

Adopted.

Third reading and final passage of SB

SB 105, relative to the issuance of property, liability and automobile insurance.

Adopted.

Sen. Lamontagne moved reconsideration.

Motion lost.

HB 804

legalizing the school district meeting in the towns of Belmont and Canterbury. Ought to pass with amendment. Sen. Jacobson for Executive.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

legalizing the proceedings establishing the Shaker Regional School District and amending the articles of agreement of said district.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Proceedings Legalized, Belmont School District. All the votes and proceedings of the annual school meeting February 6, 1971 of the Belmont school district including but not limited to the adoption of the articles of agreement of the Shaker regional school district are hereby legalized, ratified and confirmed.

2 Proceedings Legalized, Canterbury School District. All the votes and proceedings of the annual school meeting February 6, 1971 of the Canterbury school district including but not limited to the adoption of the articles of agreement of the Shaker regional school district are hereby legalized, ratified and confirmed.

3 Proceedings Legalized, Shaker Regional School District. All votes and proceedings of the first meeting of the Shaker regional school district held May 8, 1971 are hereby legalized, ratified, and confirmed in all respects, and, without limiting the generality of the foregoing, said district may issue six hundred ninety-one thousand, two hundred fifty dollars in bonds or notes under RSA 195 and RSA 33 for enlarging the Belmont high school and for renovating the Gale and Memorial schools.

4 Manner of Election of Shaker Regional School District Offices. Notwithstanding the provisions of section 2 of the articles of agreement of Shaker regional school district, the members of the cooperative school board shall be elected at large by the qualified voters of the district as a whole; and commencing in 1972, and thereafter, when a successor member is elected to replace a member whose term has expired, such successor member shall be a resident of the same pre-existing district as that of which the member whose term has expired is a resident.

5 Referendum. The provisions of section 4 of this act shall not be effective unless approved by a majority of the voters of the Shaker regional school district voting at a referendum in accordance with this section. Said referendum shall be called and warned in the same manner as a special meeting of the district. The warrant for said referendum shall contain an article as follows: "That the sense of the voters shall be taken on the following question: 'Do you approve that section of an act of the 1971 general court which provides that in the future the members of the Shaker Regional School Board shall be elected at large?'" The Shaker regional school district clerk then in office shall prepare a ballot for use at said referendum upon which shall be printed the following question: "Do you approve that section of an act of the 1971 general court which provides that in the future the members of the Shaker Regional School Board shall be elected at large?" Directly opposite said question shall be a box marked "Yes" and a box marked "No" for the voter to indicate his choice. The referendum shall be conducted at one polling place designated in the warrant and for a period of at least six hours, also so designated. If a majority of those voting on the question approve, section 4 of this act shall be declared to have been adopted. The clerk of the school board shall immediately after said referendum certify to the secretary of state the vote thereon.

6 Effective Date. Section 5 of this act shall take effect upon its passage. Section 4 shall take effect as provided by section 5. Sections 1, 2 and 3 hereof shall take effect on the day following the referendum prescribed by section 5 regardless of the outcome of said referendum.

Sen. JACOBSON: Mr. President, HB 804 relates to a legalizing bill in the first instance of the newly formed Shaker Regional School District in the towns of Belmont and Canter-

bury. The original intention of the legalizing bill was to legalize the votes in order to secure the full status of the newly formed regional school district in order that the bonds which were voted would be approved by bond council. There were some technical errors in it with regards to the way in which the Clerk kept the minutes. However, on further investigation with bond council, it was discovered that since this regional school was formed after the decision of the Supreme Court, that to approve the election of school board members in the traditional manner would, in fact, jeopardize the issuance and sale of these bonds.

The court decision requires the one man, one vote principle in school districts. What the amendment to this bill does is to ask for a referendum in the two towns which says, in effect, "are you in favor of electing all school board members in the Shaker Regional School District at large?" The whole effort is in order that the bonds may be issued and that they are legal and proper.

In conclusion, may I say that I have a deep concern about the bond council's activity in legislative matters. Indeed, it has become so increasingly difficult because the bond council refuses to approve any of these bonds. I think we need a very serious investigation of the power of the bond council over the legislature.

Amendment adopted. Ordered to third reading.

SB 150

requiring that the mayor of the City of Nashua be elected by majority vote and providing for a run-off election to the same. Ought to pass. Sen. Leonard for Executive.

Sen. LEONARD: Mr. President, SB 150 amends the charter for the City of Nashua. Under the present charter, if five people ran for mayor, the one with the most votes would be elected. It is possible to be elected with 35 or 40 percent of the vote. This bill changes the procedure for the election of mayor only. It requires that if no one has a majority of the votes, that there will be a run-off election within thirty days of the two candidates with the highest amount of votes.

Adopted. Ordered to third reading.

HB 468

clarifying the provisions of the statute that tax deeds shall be given by the collector in office. Ought to pass. Sen. Jacobson for Executive.

Sen. LEONARD: Mr. President, under the present law, it has been determined that the tax collector who was present at the tax sale is the only one who can decide to tax people. This provides that the tax collector in office at the time of the sale and at the time of the conveyance may sign the deed.

Adopted. Ordered to third reading.

HB 548

relative to the use of the state seal. Ought to pass. Sen. Jacobson for Executive.

Sen. LEONARD: Mr. President, under the present law, the Secretary of State is the keeper of the seal. This bill strengthens the law and provides that the state seal is the property of the State of New Hampshire and that no person shall manufacture, expose to sale, etc, articles of the seal. It also provides that the Secretary of State may authorize the use of this seal upon application. He has the discretionary power to decide whether the use is proper or not. It also provides for penalty of up to a \$500 fine and imprisonment for six months.

Sen. ENGLISH: Does this mean that the various departments who use the seal on their books will have to make application?

Sen. LEONARD: No, any official of the state can use the seal in an official way. There was discussion in the hearing that the Governor, while in office, may use the seal but not while he was running for the position.

Adopted. Ordered to third reading.

VACATE COMMITTEE

Sen. JACOBSON: Mr. President, I move that the order whereby SB 308 was referred to the Committee on Executive Departments, Municipal & County Governments be vacated and sent to the Committee on Finance.

Adopted.

COMMITTEE REPORTS CONTINUED**SB 267**

establishing a remote terminal providing information on

federal funds in the office of the coordinator of federal funds. Ought to pass with amendment. Sen. Stephen Smith for Finance.

AMENDMENT

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Federal Funds. The coordinator of federal funds is hereby authorized to accept federal funds to be expended for the purpose authorized by RSA 4:12-a, V.

Sen. S. SMITH: Mr. President, SB 267 establishes communications in Washington for the coordinator of federal funds to allow more accurate determination of federal funds available for the State of New Hampshire. The amendment strikes out the appropriation but authorizes the coordinator of federal funds to apply and accept federal funds for the installation and adoption of this system. I hope that the Senate will adopt this.

Sen. ENGLISH: What type of communication does this involve?

Sen. S. SMITH: This is a computer.

Amendment adopted. Ordered to third reading.

HJR 54

making a supplemental appropriation for the Racing Commission. Ought to pass. Sen. R. Smith for Executive.

Sen. S. SMITH: Mr. President, it is my understanding that this resolution gives a supplemental appropriation to the Racing Commission which had not budgeted for the Rochester Raceway, Inc. and due to that fact, transferred funds from the Hinsdale Account. It hopes that afterwards, the funds could be transferred back to Hinsdale, but due to the fact that the income derived from the Rochester Raceway was slight — there were not sufficient funds to take care of Hinsdale. In effect, these funds are appropriated for harness racing and our revenues are returned to the General Fund. Therefore, these funds are necessary for the continuing operation of the Racing Commission. It was not anticipated in the budget of two years ago that there would be races and expenses for the Rochester Raceway. I hope that the Senate will go along with the Committee in the adoption of the resolution.

Adopted. Ordered to third reading.

SB 195

giving the Director of Safety Services and his authorized representatives the power of arrest in the enforcement of laws relative to operation of boats by a person under the influence of liquor or drugs. Ought to pass. Sen. Downing for Judiciary.

Sen. NIXON: Mr. President, SB 195 was sponsored by Sen. S. Smith and its purpose is to give the Director of Safety Services and his authorized representatives the power of arrest in the enforcement of laws relative to the operation of boats by a person under the influence of liquor or drugs. This is a practice that is being carried on now and usually these fellows get themselves deputized as sheriffs or appointed as special police officers. All this bill would do, if passed, would be to give them the power to arrest drunken or drugged violators. The Committee recommends its passage.

Adopted. Ordered to third reading.

SB 261

providing for reciprocity in motor vehicle citations. Ought to pass. Sen. Lamontagne for Judiciary.

Sen. NIXON: Mr. President, SB 261 was sponsored by Sen. Lamontagne at the request of the Division of Motor Vehicles. The bill would provide for reciprocity in motor vehicle citations and by that I mean that if a person from New Hampshire was picked up on a minor traffic violation charge in Virginia, rather than having to post cash bail in Virginia and appear in a court proceeding there, under the reciprocity agreement, this bill, if enacted, would authorize the disposition of the matter to be handled through the New Hampshire Motor Vehicle Department. This is thought to be in the interest of New Hampshire residents as well as in the interest of other states with whom New Hampshire would make this agreement. The Committee recommends its passage.

Adopted. Ordered to third reading.

SB 284

providing for the establishment of a Court Accreditation Commission. Ought to pass. Sen. Leonard for Judiciary.

Sen. LEONARD: Mr. President, many of the facilities in the state, such as schools, have accreditation boards or commissions that look into their facilities. The courts in New Hampshire do not have this. We have some courts which are

actually unacceptable but we have to use them because they are the only ones we have. This bill sets up the commission called the New Hampshire Court Accreditation Commission and provides that each year, this commission, at no pay, (though they will receive mileage) will inspect the court facilities throughout the state and make a report as to their opinion as to the condition of the facilities. It provides that if the commission decides that a certain court is not acceptable to those standards, they will inform the Chief Justice and those responsible at least 90 days prior to a public disclosure of their findings. At the end of 90 days, they will post their findings on the door or the wall of the court so that it will be public record that the court should be changed. Sen. Nixon was the sponsor of this bill and we hope that the Senate will take the proper action on this.

Adopted. Ordered to third reading.

SB 286

providing for the waiver of court costs and fees in certain cases. Ought to pass. Sen. Nixon for Judiciary.

Sen. NIXON: Mr. President, I sponsored SB 286 at the request of the New Hampshire Superior Court to whom the suggestion was made by Executive Director, George Bruno of New Hampshire Legal Assistance. This bill permits the Superior Court or the clerk to waive the costs, which are sheriff's fees, entry fees and so forth which may otherwise be required from an indigent person in connection with the case. Right now, federal funds provide for the payment of counsel for the benefit of the indigent. This bill goes one step further in providing for the waiver of court costs. The Committee reports this as "ought to pass".

Adopted. Ordered to third reading.

SB 287

providing for a unified court system for New Hampshire. Ought to pass. Sen. Nixon for Judiciary.

Sen. NIXON: Mr. President, I move that SB 287 be re-committed to the Committee on Judiciary. The reason for the recommitment request is to permit another hearing on SB 287 at the request of Sen. Jacobson which will be done tomorrow morning at 11 o'clock in Room 110. We felt that this was a reasonable request.

Sen. JACOBSON: Mr. President, I would like to make perfectly clear that it was also the Judicial Council who wanted to have an opportunity to come and talk about this bill which profoundly affects them.

Adopted SB 287 recommitted.

SB 294

relative to certain duties of the Superior Court. Ought to pass. Sen. Nixon for Judiciary.

Sen. NIXON: Mr. President, SB 294 was sponsored at the request of the justices of the Superior Court. This would merely provide that in the case of a vacancy in a county office, instead of the Superior Court filling the vacancy, the County Convention would do so until the next subsequent election pertains to that office. The bill is thought to be consistent with the principle of separation of powers as between the judicial and legislative branches. The judges don't feel as though they should be involved in these matters and the politicians don't feel so either. There was no opposition to the bill and the Committee had a unanimous report as "ought to pass".

Adopted. Ordered to third reading.

SB 295

providing for the appointment of acting assistant county attorneys so as to permit speedier disposition of criminal cases. Ought to pass. Sen. Nixon for Judiciary.

Sen. NIXON: Mr. President, SB 295 would permit that when a county attorney feels that he is bogged down with the criminal case load confronting him, he can petition a justice of the Superior Court for the appointment of an acting assistant county attorney on a temporary basis. The justice, in his discretion, would grant or deny that petition and, in addition, could fix a reasonable per day compensation for any such acting assistant county attorney. The bill would particularly alleviate the congestion caused by the increase in criminal case loads and it would be much cheaper for the county involved to do this than to hire a full-time assistant county attorney. The unanimous report was "ought to pass". There are no appropriations from state funds.

Adopted. Ordered to third reading.

(Sen. S. Smith in the Chair)

SB 302

prohibiting discrimination because of age or sex. Ought to pass. Sen. Nixon for Judiciary.

Sen. NIXON: Mr. President, I sponsored SB 302. In 1965, this Legislature in its wisdom enacted the first civil rights law in New Hampshire and established a human rights commission. It prohibited discrimination because of race, creed, color or national origin. However, no prohibition existed against discrimination due to age or sex; therefore legally, in New Hampshire, notwithstanding that federal prohibitions exist, one possibly can discriminate against others because they are women or because they are old. This bill, if adopted, would prohibit this type of discrimination. There was no opposition to the bill.

Adopted. Ordered to third reading.

SB 303

relating to the jurisdiction of the supreme court. Ought to pass. Sen. Nixon for Judiciary.

Sen. NIXON: Mr. President, SB 303 relates to the jurisdiction of the Supreme Court and amends it in two ways. It provides that the Supreme Court, in connection with its already statutory authorized power to have general superintendents of all courts, may correct any abuses. It also would give authority to approve rules of court. This is not only advisable with respect to the uniformity of practices but would improve our courts. The bill is reported as "ought to pass".

Adopted. Ordered to third reading.

(Sen. Bradshaw in the Chair)

SB 172

relative to the judicial process. Ought to pass with amendment. Sen. Nixon for Judiciary.

AMENDMENT

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Jurisdiction, District Courts. Amend RSA 502-A:11 by striking out in line three the words "subject to appeal" so that said section as amended shall read as follows: 502-A:11 Crim-

inal Cases, District Courts. Each district court shall have the powers of a justice of the peace and quorum throughout the state and shall have original jurisdiction of all crimes and offenses committed within the confines of the district in which such court is located which are punishable by a fine not exceeding one thousand dollars or imprisonment not exceeding one year, or both. Provided, however, that any town which may vote to continue its municipal court in accordance with the provisions of section 35 of this chapter shall have exclusive jurisdiction over offenses committed within the confines of that town, in accordance with the provisions of RSA 502:18, until such municipal court is subsequently abolished under the provisions of section 35 of this chapter.

2 Trial of Criminal Cases in the District Courts by Six-Man Juries. Amend RSA 502-A by inserting after section 11 the following new sections:

502-A:11-a Trial by Jury of Six. In any criminal action which is within the jurisdiction of a district court to try as provided in RSA 502-A:11, the defendant shall have a right to trial by a jury of six persons. The defendant may elect to waive a jury of six in the manner provided in RSA 606:7. Trials by such juries of six shall be held in the courtroom of said court, or, if not practicable there, then in the courthouse of the superior court for the county in which the district is located. The justice of each district court shall arrange for the jury sessions of the court to the end that speedy trials may be provided.

502-A:11-b Jurors. Jurors shall be drawn by the clerk of the superior court from the jury lists from the several towns and wards of which the district is composed of those persons who are available for jury duty in the Superior Court, in accordance with the provisions of RSA 500-A. The justice of the district court shall certify to the clerk of the superior court the number of jurors to be summoned and from what towns and wards of the district, so that each may furnish its proportion of jurors in each year. The clerk of the superior court shall deliver to the clerk of the district court a list of the persons drawn for jury service in the district court, and the clerk of the district court shall give to each juror a notice in writing of his selection as a juror and of the day and time he is to appear. Any person, without sufficient cause, neglecting to attend court after being selected as a juror and duly notified so to attend

may be found in contempt of court. The compensation of jurors shall be the same as for jurors drawn for service in the superior court, and shall be paid by the county.

502-A:11-c Jury Trial Procedure. Trials by juries of six shall proceed in accordance with provisions of law applicable to trials of criminal cases in the superior court, including RSA 606, except that the number of peremptory challenges shall be limited to two for each defendant. The state shall be entitled to as many such challenges as equal the whole number to which all the defendants in the case are entitled.

502-A:11-d Stenographers. The justice presiding in a trial by jury of six shall, upon the request of a defendant, appoint a stenographer, who shall be sworn and whose duties at such trial and with respect to transcripts after trial shall be the same as those of an official stenographer of the superior court as set forth in RSA 519:26 and RSA 519:28. The administrative committee may make regulations not inconsistent with law relative to the qualifications, assignments, duties and service of stenographers appointed for any district court, and other matters relative to such stenographers. The compensation and expenses of such stenographers shall be paid by the county.

3 Review by Supreme Court; Superior Court Appeals Eliminated. Amend RSA 502-A:12 by striking out the same and inserting in place thereof the following:

502-A:12 Review of Convictions. A person convicted of any offense in a district court may have his conviction reviewed by the supreme court by a reserved case, bill of exceptions or otherwise in the same manner as provided for review of convictions in the superior court.

4 Superior Court Appeals Eliminated. Amend RSA 599:1 (supp) by striking out the words "district or" in the first line and the words "district or" in the seventh line, so that said section as amended shall read as follows:

599:1 Appeals. A person sentenced for an offense, by a municipal court may, at the time such sentence is declared, appeal therefrom to the superior court, and said appeal shall be entered by the appellant at the next return day unless for good cause shown the time is extended by the superior court. In all criminal cases which are so appealed, or in which de-

pendants are bound over, it shall be the duty of the clerk of the superior court to transmit to the justice of the municipal court, within ten days after such case is finally disposed of, a certificate showing the final disposition of such case.

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5 Minimums Increased. Amend RSA 268:1 VII (supp) as amended by 1955, 76:1 and 1969, 316:1, by striking out in line fifteen the word "fifteen" and inserting in place thereof the words "twenty-five", by striking out in line seventeen the word "thirty" and inserting in place thereof the word "fifty", so that said paragraph as amended shall read as follows:

VII. "Motor Vehicle Liability Policy", a policy of liability insurance which provides: (a) indemnity for or protection to the insured and any person responsible to him for the operation of the insured's motor vehicle, trailer, or semi-trailer who has obtained possession or control thereof with his express or implied consent, against loss by reason of the liability to pay damages to others for damage to property, except property of others in charge of the insured or his employees, or bodily injuries, including death at any time resulting therefrom, accidentally sustained during the term of said policy by any person other than the insured, or employees of the insured actually operating the motor vehicle or such other person responsible as aforesaid who are entitled to payments or benefits under the provisions of any workmen's compensation act, arising out of the ownership, operation, maintenance, control, or use within the limits of the United States of America or the Dominion of Canada of such motor vehicle, trailer or semi-trailer, to the amount or limit of at least twenty-five thousand dollars on account of injury to or death of any one person, and subject to such limits as respects injury to or death of one person, of at least fifty thousand dollars on account of any one accident resulting in injury to or death of more than one person, and of at least five thousand dollars for damage to property of others, as herein provided, or a binder pending the issue of such a policy or an endorsement to an existing policy, as defined in sections 15, 16, and 18, and which further provides indemnity for or protection to the named insured and to the spouse of such named insured as insured if a resident of the same household, or the private chauffeur or domestic servant acting within the scope of the employment of any such insured with respect to the presence of any such insured in any other motor

vehicle, from liability as a result of accidents which occur in New Hampshire due to the operation of any motor vehicle, trailer, or semi-trailer not owned in whole or in part by such insured, provided, however, the insurance afforded under this subparagraph (b) applies only if no other valid and collectible insurance is available to the insured.

6 Satisfaction of Judgment for Injury to One Person. Amend RSA 268:10 I (supp) as amended by 1955, 76:2, and by 1969, 316:2 by striking out in line one the word "fifteen" and inserting in place thereof the words "twenty-five", so that said paragraph as amended shall read as follows:

I. When twenty-five thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident; or

7 Satisfaction of Judgment for Injury to two or More Persons. Amend RSA 268:10 II (supp) as amended by 1955, 76:2 and by 1969, 316:3, by striking out in line one the word "fifteen" and inserting in place thereof the words "twenty-five", and by striking out in line two the word "thirty" and inserting in place thereof the word "fifty", so that said paragraph as amended shall read as follows:

II. When, subject to such limit of twenty-five thousand dollars because of bodily injury to or death of one person, the sum of fifty thousand dollars has been credited upon any judgment rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or

8 Limits Increased. Amend RSA 268:19 (supp) as amended by 1955, 76:3 and by 1969, 316:4 by striking out in line five the word "fifteen" and inserting in place thereof the words "twenty-five", and by striking out in line seven the word "thirty" and inserting in place thereof the word "fifty", so that said section as amended shall read as follows: 268:19 Amount of Proof of Financial Responsibility. Proof of Financial responsibility shall mean proof of ability to respond in damages for any liability thereafter incurred, as a result of accidents which occur in New Hampshire, arising out of the ownership, maintenance, control, or use of a motor vehicle, trailer or semi-trailer in the amount of twenty-five thousand dollars because

of bodily injury or death to any one person; and subject to said limit respecting one person, in the amount of fifty thousand dollars because of bodily injury to or death to two or more persons in any one accident, and in the amount of five thousand dollars because of injury to and destruction of property in any one accident. Whenever required under this chapter such proof in such amounts shall be furnished for each motor vehicle, trailer or semi-trailer registered by such person.

9 Judicial Council Members. Amend RSA 494:2 (supp) as amended by 1969, 395:2 by striking out said section and inserting in place thereof the following: 494:2 Appointment and Tenure of Office. The term of each member, except the attorney general and the president of the New Hampshire Bar Association shall be for three years and until his successor is appointed and qualified. However, whenever any member shall attain the age of seventy years, the office held by him shall become vacant and such vacancy shall be filled accordingly to law; provided, however, that this age limitation shall not apply to anyone who was a member as of January 1, 1971 and who had attained the age of seventy years as of such date. Vacancies shall be filled for the remainder of any term in the same manner as the original appointment. The attorney general and the president of the New Hampshire Bar Association shall be members ex officio.

10 Payment of Claims. Amend RSA by inserting after chapter 508-A the following new chapter.

Chapter 508-B

Procedure for Advance Payment on Claims for Damages for Bodily Injury, Death or Property Damage

508-B:1 Payment, Not to Imply Liability. No advance payment or partial payment of damages made by any person, or made by his insurer under liability insurance, as an accommodation to an injured person or on his behalf to others or to the heirs at law or dependents of a deceased person, because of a personal injury or death claim or potential claim against any person or insured shall be construed as an admission of liability by the person claimed against, or as a recognition by such person or by his insurer of such liability, with respect to such injured or deceased person or with respect to any other claim arising from the same accident or event. Any such pay-

ments shall, however, constitute a credit against and be deducted from any final settlement made or judgment rendered with respect to such injured or deceased person which does not expressly provide to the contrary.

508-B:2 Duty of Person Making Payment. Any person, including any insurer, who makes an advance or partial payment as described in RSA 508-B:1 shall at the time of beginning payment notify the recipient thereof in writing:

I. That the payment does not constitute any assurance by the person making the same that a final settlement of the claim will be made.

II. That the period of time in which the recipient may bring an action against such person is limited by law, and what the applicable limitation period is and when it will expire.

III. That the recipient is free to consult a lawyer as to the legal significance of accepting an advance or partial payment.

508-B:3 Statute of Limitations Tolloed by Failure to Provide Notice. Failure to provide the written notice required by RSA 508-B:2 shall operate to toll the applicable statute of limitations from the time of such advance or partial payment until such written notice is actually given.

11 Superior Court Judges. Amend RSA 491:1 (supp) as amended by 1963, 260:1 and 1969, 453:1 by striking out said section and inserting in place thereof the following: 491:1 Justices. The superior court shall consist of a chief justice and a sufficient number of associate justices so that the total number of justices, including the chief justice, shall equal the sum attained by dividing the current population of New Hampshire, as determined by the most recently published Statistical Abstract of the United States, by the number sixty thousand; provided that no justice once appointed shall be removed from office due to a decrease in population. Said justices shall be appointed and commissioned as prescribed by the constitution and shall exercise the powers of the court unless otherwise provided. The court shall, in addition, include any justices who have been retired from active service due to permanent disability.

12 Governmental Immunity Reduced. Amend RSA 508 by inserting after section 12 the following new section: 508:13

Partial Abrogation of Governmental Immunity for Torts. Actions may be maintained against the state or any agency or governmental subdivision thereof, including any county, city, town, or school district, to recover damages on account of bodily injuries or death or damage to or destruction of property caused by the negligence, fault or other wrong of the state or agency or governmental subdivision, or any employee or agent thereof, in those cases where the state or agency or governmental subdivision would otherwise be immune from liability for such torts under the principle of sovereign or governmental immunity or because engaged in the performance of governmental functions, but its liability in any such action shall not exceed the greater of (a) the minimum limits prescribed for motor vehicle liability policies by RSA 268, or (b) the limits of coverage specified in any policy of liability insurance procured by the state, agency or governmental subdivision pursuant to RSA 412:3 and insuring against the particular risk. In any such action the liability of the state or agency or governmental subdivision shall be determined as in the case of a private corporation, but the court shall abate any verdict to the extent it exceeds the applicable limits hereunder. Nothing herein shall affect or limit any right of action in tort against any agency or governmental subdivision of the state authorized by other provisions of law, nor shall this section affect or limit any cause of action in tort against any agency or governmental subdivision of the state in which the defense of sovereign or governmental immunity is not available at common law.

13 **Unsolicited Merchandise.** Amend RSA 339 by inserting after section 2 the following new subdivision.

Unsolicited Merchandise

339:2-a **Duty of Receiver.** Any person to whom unsolicited merchandise is addressed, may refuse delivery, or accept the merchandise as a gift, without incurring any legal obligation to the sender.

14 **Arbitration of Claims.** The supreme court pursuant to its authority to make rules regulating the proceedings in the district and municipal courts, as set forth in RSA 502-A:19-a, and the superior court pursuant to its authority to make rules regulating the proceedings in the superior court, as set forth in RSA 491:10, may by rules of court provide that all or any

specific types of cases filed in the superior, district and municipal courts where the amount in controversy shall be five thousand dollars or less, except those involving title to real estate, shall first be submitted to and heard by a panel of three members of the bar of this state designated by a justice or clerk of the superior court who shall arbitrate the issues in the cases. Said rules shall proscribe the manner in which the arbitrators are selected and compensated and the rules and procedures to be followed in the arbitration proceedings.

15 Appeal from Arbitration. Either party may appeal from an award of the arbitrators to the court in which the case was initiated, under the following rules:

I. Such party, his agent or attorney, shall pay at the time of appealing all reasonable costs, excepting attorney's fees, that may have been incurred by the other party in such suit or action through the rendering of the arbitrators' decision.

II. Such appeal shall be entered, and the costs paid, within twenty days after the day of the entry of the award of the arbitrator on the docket, or such award shall be entered on the docket as a final judgment.

III. Upon appeal to the superior court, either party may elect to try the cause by jury. Upon the trial of any appeal, whether by jury or by the court sitting without jury, the report of the arbitrators shall be given in evidence, subject to impeachment by either party.

16 Repeal. RSA 500 relative to jurors is hereby repealed.

17 New Chapter. Amend RSA by inserting after chapter 500 the following new chapter:

Chapter 500-A
Jurors

500-A:1 Definitions. As used in this chapter the words shall have the following meanings:

I. "Towns" shall mean towns and city wards.

II. "Clerk" shall mean the clerk of superior court in each county or any of his deputies.

III. "Selectmen" shall mean selectmen in towns and city wards.

500-A:2 Town Lists. The selectmen shall annually in May make a list in duplicate of such men and women, including their address, as they judge best qualified to serve as jurors. One list shall be delivered to the clerk of superior court not later than the first Monday in June, the other list shall be retained by the town or city clerk. Provided, however, that any woman who has care of one, or more children under the age of twelve years shall, if she so desires be exempt from jury duty.

500-A:3 Number of Names. The lists shall contain the names of two persons for every one hundred inhabitants.

500-A:4 Exemptions. The governor, secretary and treasurer of the state, judges and clerks of court, registers of deed and probate, sheriffs and their deputies, attorneys-at-law, ordained ministers, practicing physicians and surgeons, postmasters, fire chiefs, full-time firemen, police chiefs, active and retired policemen, employees of casualty insurance companies, and teachers in public schools, are exempt from serving as jurors, and their names shall not be placed on the list.

500-A:5 Revision of List. The clerk shall annually in April send to the town or city clerks an attested copy of the jury lists from the respective towns and wards indicating all men and women drawn for jury duty from said list. If for any reason additional jurors are needed, the selectmen, upon notice from the clerk, shall revise the list as required to be done in May and re-return the revised list to the clerk forthwith.

500-A:6 Attendance. Grand and petit jurors shall attend the terms of the superior court, and they may be summoned at the discretion of the court during its session.

500-A:7 Court Orders. The court, shall direct the number of jurors to be summoned, and from what towns, so that each may furnish its proportion of jurors in each year.

500-A:8 Drawing. The clerk shall draw the names of persons required by the court for service on the petit and grand jury.

500-A:9 Further Drawing. If any person whose name is so drawn is dead, insane or disabled by sickness, or has removed from town, the clerk shall draw another name.

500-A:10 Return; Future Ineligibility. The persons drawn

and who actually attend court as jurors shall not have their names again placed on the list for six years.

500-A:11 Notice to Jurors. The clerk shall give to each juror a notice in writing of his selection as a juror and of the day he is to appear.

500-A:12 Penalty for Neglect of Juror. Any person, without sufficient cause, neglecting to attend court after being selected as a juror and duly notified to so attend may be found in contempt of court.

500-A:13 Misfeasance of Selectmen. If any selectman willfully neglects to perform any duty required by this chapter, or puts upon the list the name of a person at his or her own request, or on the request of any other person, or is guilty of any fraud or collusion with respect to the preparation of the list, he may be fined not more than one hundred dollars.

500-A:14 Talesmen. The sheriff or other officer, under the direction of the court, may return jurors of the persons present.

500-A:15 Oath. The oath to be administered to jurors in civil cases shall be as follows:

You swear that, in all cases between party and party that shall be committed to you, you will give a true verdict, according to law and evidence given you. So help you God.

500-A:16 Compensation of Jurors. Grand and petit jurors shall be paid by the county for each day or part of a day which is spent in actual attendance at court, fifteen dollars each; for travel to and from court each day, each mile ten cents; talesmen shall receive compensation and allowances for travel and expenses in the same manner and amount as grand and petit jurors.

500-A:17 Parking for Jurors. Every juror, while in attendance at superior court or United States district court shall be allowed free parking in any city or town where such court is sitting. The clerks of court shall furnish to each juror an identification card for display through the windshield of the juror's car. At the cessation of court the juror shall return his identification card to the clerk of court. The form, shape and color of said identification card and also the information to be contained thereon is to be approved by the director, division of

motor vehicles. No juror shall use any area limited to fifteen minutes of parking or less.

500-A:18 Parties. No person shall serve as a petit juror at a term of court at which he has a cause pending which may be tried by the jury at that term, but he shall be discharged from service as a juror.

500-A:19 Exemption for Age. If any person of the age of seventy years or over is selected as a juror he may at his discretion file with the court a written statement prior to the convening of court to the effect that he does not wish to act as a juror and he shall be discharged and another juror may be drawn in his stead.

500-A:20 Discharge by Court. If any person selected and attending court as a juror is exempt from service as a juror, or is deemed by the court unfit, either mentally or physically, or other sufficient cause, to act as a juror he shall be discharged, and another juror may be drawn from the same town or ward.

500-A:21 Exemption on Ground of Other Public Duties. If any member of the general court or delegate to a constitutional convention is selected as a juror during any time when the general court or a constitutional convention is in session he may file with the court a written statement to the effect that he does not wish to act as a juror and he shall be discharged and another juror may be drawn in his stead from the same town or ward.

500-A:22 Examination. Any juror may be required by the court, on motion of a party in the cause to be tried, to answer upon oath whether he expects to gain or lose by the issue of the cause; whether he is related to either party; whether he has advised or assisted either party, or directly or indirectly given his opinion or has formed an opinion; whether he is sensible of any prejudice in the cause; or whether any one of the counsel in the cause is employed by him in any action then pending in said court. If it appears that any juror is not indifferent he shall be set aside on that trial.

500-A:23 Alternate Juror. In the trial in the superior court of any case, civil or criminal, when it appears to the presiding justice that the trial is likely to be protracted, upon direction of the presiding justice after the jury has been duly impaneled

and sworn, additional or alternate jurors may be selected and said alternates shall be drawn and selected in the same manner as the regular jurors in said case were selected, but each party shall be entitled to one peremptory challenge as to each alternate juror; such additional or alternate jurors shall likewise be sworn and seated near the jury, with equal opportunity for seeing and hearing the proceedings and shall attend at all times upon the trial with the jury and shall obey all orders and admonitions of the court to the jury and, when the jurors are ordered kept together in any case, said alternate jurors shall be kept with them. Said alternate jurors shall be liable as a regular juror for failure to attend the trial or to obey any order or admonition of the court to the jury, shall receive the same compensation as other jurors, and except as hereinafter provided shall be discharged upon the final submission of the case to the jury. If before the final submission of the case to the jury one or more jurors become incapacitated or disqualified or dies, his place shall be taken upon the order of the court, by an alternate juror who shall become one of the jury and serve in all respects as though selected as an original juror.

18 Joint Tortfeasors. Amend RSA 507 by inserting after section 7-a the following new sections:

507:7-b Release or Covenant Not to Sue; Joint Tortfeasors. When a release or covenant not to sue is given in good faith to one of two or more persons liable in tort for the same injury to person or property or for the same wrongful death, it does not discharge any of the other tortfeasors from liability for the injury or wrongful death unless its terms expressly so provide; but it reduces the claim against the others in the amount of the consideration paid for it.

507:7-c Inadmissible Evidence; Post Verdict Procedure. Evidence of a settlement with, or the giving of a release or covenant not to sue to, one or more persons liable in tort for the same injury to person or property or for the same wrongful death shall not be introduced in evidence in a subsequent trial by jury of an action against any other tortfeasor to recover damages for the injury or wrongful death. Upon the return of a verdict by the jury, the court shall inquire of the attorneys for the parties the amount of the consideration paid for any settlement, release or covenant not to sue, and shall reduce the verdict by that amount.

19 Frivolous Appeals. Amend RSA 490 by adding after section 14 the following new section:

490:14-a Penalties for Frivolous Appeals. If upon the hearing of any appeal, reserved case or bill of exceptions, it appears that the appeal, reserved case or bill of exceptions is frivolous, immaterial or intended for delay, then the court, upon motion of a party or its own motion, may award against the moving party double the amount of the costs incurred by the prevailing party beginning with the entry of the appeal, reserved case or bill of exceptions, and also interest at the rate of twelve percent per annum on any amount which has been previously found due or for which a verdict has been recovered or which the moving party has been ordered to pay.

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20 Memorandum Opinions. Amend RSA 490:15 by striking out the same and inserting in place thereof the following: 490:15 Opinions; Notice. The justices shall file with the clerk a written opinion in every case decided by them. In cases deemed by the justices of minor importance, they may file opinions in memorandum form, with or without the assignment of reasons. The clerk shall at once notify the parties or their counsel, by mail, of the order made. No order of the court for a final disposition of a case pending therein shall be valid and blinding until an opinion has been filed.

21 Effective Date. Sections 1 through 4, inclusive, and section 13 hereof, shall take effect on September 1, 1973. Sections 5 through 9, inclusive, and sections 17 and 18 hereof, shall take effect on January 1, 1972. All other sections of this act shall take effect sixty days after its passage.

Sen. NIXON: Mr. President, SB 172 affects the judicial process in New Hampshire in several ways with respect to the improvement of that process. It provides for the utilization of a six man jury in District Courts effective in 1973 so as to give time to increase the facilities and set up procedures. It provides for more limited appeals on judgments and rulings of the District Courts to alleviate the backlog in cases pending in the Superior Court and also to assist in the speedy disposition of criminal matters.

Among other things, the bill also provides that there is no legal obligation on anyone who receives unsolicited mer-

chandise in the mail — he can keep it, throw it away or sell it. He does not have to pay for it if he did not ask for it. In addition, the bill provides for a fairer means of protection both of the insurance industry and the recipient of advance payments so that the person who receives the advance payment gets notice so he is free to solicit the advice of experienced counsel.

The bill provides further that the Superior Court justice member shall equal the sum attained by dividing the current population of New Hampshire as determined by the most recently published Statistical Abstract of the United States by the number sixty thousand. The bill provides for a reduction in the immunity of our government. It also provides for a fairer means of selecting the jurors and that our Supreme Court can be alleviated of the backlog to some extent by rendering shorter opinions.

The bill had the benefit of substantial redrafting and amendments by Attorney Frederick Upton, a distinguished attorney and President of the N. H. Bar Association. The Committee feels that the passage of this bill as amended would be in the best interest of the people of New Hampshire.

With respect to Judicial Council members, they would have the same limitation as is in the Supreme, Superior and all other courts. They automatically retire at age 70. The bill also contains a provision whereby the limits applicable to automobile liability insurance will be increased from \$15,000 — \$30,000 to 25,000 — \$50,000.

Amendment adopted. Ordered to third reading.

SB 199

relative to actions by and against tenants. Ought to pass with amendment. Sen. Nixon for Judiciary.

AMENDMENT

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Tenancy at Will Included. Amend RSA 540:9 by striking out said section and inserting in place thereof the following: 540:9 Payment After Notice. No forfeiture of any tenancy shall be incurred for nonpayment of rent if the tenant before the ex-

piration of the notice shall pay or tender to the landlord or his agent all rent in arrears, together with ten per cent thereof as damages and costs occasioned by his default, provided that the tenant has not received a similar notice from the landlord within the twelve month period next preceding the receipt of said notice.

Further amend the bill by striking out section 4 and inserting in place thereof the following:

4 Stays Discretionary with Judge. Amend RSA 540:14 (supp) as amended by 1957, 244:24 by inserting at the end thereof the words (provided that the issuance of the writ of possession may be stayed for a period not exceeding three months as the court may deem just and reasonable, conditioned upon the timely payment by the defendant of the rent provided for in the lease agreement, written or oral, or tenancy at will) so that said section as amended shall read as follows: 540:14 Judgment. If the defendant makes default, or if on trial it is considered by the court that the plaintiff has sustained his complaint, judgment shall be rendered that the plaintiff recover possession of the demanded premises and costs, and a writ of possession shall issue provided that the issuance of the writ of possession may be stayed for a period not exceeding three months as the court may deem just and reasonable, conditioned upon the timely payment by the defendant of the rent provided for in the lease agreement, written or oral, or tenancy at will.

Further amend the bill by striking out section 6 and inserting in place thereof the following:

6 Landlords' Duty. Amend RSA 572 by inserting after section 13 the following new section: 572:13-a Failure to Furnish Necessities. Any lessor or landlord of any building or part thereof occupied for dwelling purposes, other than a room or rooms in a hotel, lodging house or rooming house, who is required by the terms of any contract or lease or tenancy at will, to furnish water, hot water, heat, light, power, gas, elevator service, telephone service, janitor service, refrigeration service or any other essential to any occupant of such building, or part thereof, who willfully or intentionally fails to furnish such water, hot water, heat, light, power, gas, elevator service, telephone service, janitor service, refrigeration service or any other essential at any time when the same is necessary to the proper or customary use

of such building, or part thereof, or any lessor or landlord who willfully or intentionally interferes with the quiet enjoyment of any such leased or tenanted premises by the occupant, shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment for not more than six months.

Sen. NIXON: Mr. President, SB 199 was sponsored by Sen. Foley and was supported by numerous people involved in the landlord-tenant situation. Its purpose is to establish fairer and more comprehensive provisions setting forth the rights and obligations of landlords and tenants with respect to each other. Some of the eloquent testimony was offered by Attorney John Maher of Portsmouth. Part of the bill places our law in accordance with suggestions of the Supreme Court case of Kline vs. Burns. The Senate Judiciary Committee amended the bill to provide for and protect the rights of the parties involved and to guarantee the payment of rent to the landlord in certain situations.

It is felt by the Committee that if this bill is enacted into law, it would do much to clarify and make fairer the law relating to landlords and tenants.

Sen. KOROMILAS: Mr. President, I would like the record to show that I oppose the bill.

Amendment adopted. Ordered to third reading.

SB 200

relative to indemnification agreements between architects, engineers or surveyors and owners, contractors, sub-contractors or suppliers. Ought to pass with amendment. Sen. Nixon for Judiciary.

AMENDMENT

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Indemnification and Limitation of Liability Agreements Prohibited.

Amend RSA 156 by inserting after section 2 the following new section: 156:2-a Indemnification Agreements Prohibited. Any agreement or provision whereby an architect, engineer, suveyor or his agents or employees is sought to be held harm-

less or indemnified for damages and claims arising out of circumstances giving rise to legal liability therefor on the part of any said persons shall be against public policy, void and wholly unenforceable.

2 Effective date. This act shall take effect sixty days after its passage.

Sen. NIXON: Mr. President, SB 200 was sponsored by Sen. Brown. The Committee amended the bill to protect and accomplish the same ends in simpler language than it was originally written in and recommends the passage of the amendment. The bill would prohibit architects, engineers or surveyors, etc. from insulating themselves by contract provisions against liability for their own negligence.

Sen. LEONARD: I rise in support of SB 200 and agree with Sen. Nixon in his remarks.

Amendment adopted. Ordered to third reading.

SB 229

to abolish the holder in due course doctrine. Ought to pass with amendment. Sen. Koromilas for Judiciary.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

to limit the holder in due course doctrine
in consumer credit sales

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Consumer Credit Sales. Amend RSA by inserting after chapter 358-A (supp) the following new chapter:

Chapter 358-B

Consumer Credit Sales

358-B:1 Definition. As used in this chapter "consumer credit sale" is a sale or lease of goods or services (exclusive of interests in land) in which (a) credit is granted, other than pursuant to a credit card or similar arrangement, by a person who regularly engages as a seller in credit transactions of the

same kind (b) the buyer is a person other than an organization; (c) the goods or services are purchased primarily for a personal, family or household purpose; (d) either the debt is payable in instalments or a credit service charge is made and (e) the amount financed does not exceed \$25,000.

358-B:2 Notice and Limitation on Enforcement by Assignee. With respect to a consumer credit sale an agreement by the buyer or lessee not to assert against an assignee a claim or defense arising out of the sale or lease is enforceable only by an assignee not related to the seller or lessor who acquires the buyer's or lessee's contract in good faith and for value, who gives the buyer or lessee notice of the assignment as provided in this section and who, within three months after the mailing of the notice of assignment, receives no written notice of the facts giving rise to the buyer's or lessee's claim or defense. This agreement is enforceable only with respect to claims or defenses which have arisen before the end of the three-month period after notice was mailed. The notice of assignment shall be in writing and addressed to the buyer or lessee at his address as stated in the contract, identify the contract, describe the goods or services, state the names of the seller or lessor and buyer or lessee, the name and address of the assignee, the amount payable by the buyer or lessee and the number, amounts and due dates of the instalments, and contain a conspicuous notice to the buyer or lessee that he has three months within which to notify the assignee in writing of any complaints, claims or defenses he may have against the seller or lessor and that if written notification of the complaints, claims or defenses is not received by the assignee within the three-month period, the assignee will have the right to enforce the contract free of any claims or defenses the buyer or lessee may have against the seller or lessor which have arisen before the end of the three-month period after notice was mailed.

358-B:3 Assignee Subject to Defenses. An assignee does not acquire a buyer's or lessee's contract in good faith within the meaning of subsection 2 if the assignee has knowledge or, from his course of dealing with the seller or lessor or his records, notice of substantial complaints by other buyers or lessees of the seller's or lessor's failure or refusal to perform his contracts with them and of the seller's or lessor's failure to remedy his defaults within a reasonable time after the assignee notifies him of the complaints.

358-B:4 Limits on Liability of Assignee. To the extent that under this section an assignee is subject to claims or defenses of the buyer or lessee against the seller or lessor, the assignee's liability under this section may not exceed the amount owing to the assignee at the time the claim or defense is asserted against the assignee and rights of the buyer or lessee under this section can only be asserted as a matter of defense to or off-set against a claim by the assignee.

2 Amend RSA 382-A:9-203 (2) by inserting after the reference to RSA 399 a further reference to "and RSA 358-B" so that it will read as follows:

(2) A transaction, although subject to this Article, is also subject to RSA 399 and RSA 358-B, and in case of conflict between the provisions of this article and such statute, the provisions of such statute control. Failure to comply with any applicable statute has only the effect which is specified therein.

3 Effective date. This act shall take effect sixty days after its passage.

Sen. KOROMILAS: Mr. President, SB 229, as originally sponsored has been deleted and the amendment makes up the entire new bill. SB 229 is a provision which is taken out of the UCCC and pertains to the situation when a person borrows money. As we all know, when you purchase a car, you sometimes finance it. You sign a note which is transferred to the bank who is the holder in due course. What this bill says is to give the person the right to defense against the agency but only for 90 days. You have thirty days in which to inform the bank that there is some defect with respect to what you purchased. This gives the person who purchases something and finances it the defense to assert these defenses against the assignee. This gives the buyer added protection because under the present law, you cannot assert the same defenses after the seller has turned over the financing to the financing institution.

Amendment adopted. Ordered to third reading.

SB 240

to provide a procedure for the disposition of claims arising from legal or medical malpractice. Ought to pass with amendment. Sen. Jacobson for Judiciary.

AMENDMENT

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 New Chapter. Amend RSA by inserting after chapter 519 the following new chapter:

Chapter 519-A
Professional Malpractice Claims

519-A:1 Panel Established. The clerks of the superior court shall maintain a panel of twelve laymen, twelve doctors, twelve dentists, and twelve lawyers deemed by them to be possessed of a high degree of intelligence, fairness of mind, objectivity of viewpoint, disinterestedness, and devotion to the public interest, and, in the case of doctors, dentists, and lawyers, demonstrated competence and ability in their respective professions. In the composition of such panels, the clerks of court may, but shall not be required to, accept the recommendations of any professional organization to which a suggested panel member may belong. The panel members shall serve without compensation; provided that the judicial referee member of any panel shall not be thereby deprived of any statutory allowance to which he is otherwise entitled for serving in such capacity.

519-A:2 Claims; Hearings; Notification; Hearings Panels. Any person, or his legal representative, claiming damages by reason of injury, death, or monetary loss on account of alleged professional malpractice may informally and voluntarily submit against any lawyer, doctor, or dentist, against whom he believes there is a reasonable basis for a claim to a hearing panel prior to the institution of any litigation as to said claim, and not thereafter. The hearing panel shall consist of three persons. In the case of the submission of a claim against a doctor, it shall be composed of a layman, and a doctor chosen from the panel maintained by the clerks of court, plus a judicial referee. In the case of submission of a claim against a dentist, it shall be composed of a layman, and a dentist chosen from the panel maintained by the clerks, plus a judicial referee. In the case of the submission of a claim against a lawyer, it shall be composed of a layman, and a lawyer chosen from the panel maintained by the clerks of court, plus a judicial referee. In any case the judicial referee shall preside as chairman of the hearing panel. Claims

under the provisions of this chapter shall be made on forms provided by the superior court, and shall be filed initially with the clerk of court, with mail copies to the person against whom the claim is made, and to the statewide professional association or society to which said person belongs, if any. The clerk shall within thirty days of the filing of a claim mail to the parties and their counsel, if any and if known, copies of the then list of membership of laymen and applicable professional panels. Within thirty day after such mailing, the parties or their counsel shall meet with the clerk and shall draw the lay and professional members of the hearing panel by lot, each party to have three peremptory challenges with respect to both categories of panel members. The clerk shall then, with the advise and cooperation of the parties or their counsel, fix a date, time, and place for a hearing on the claim before the hearing panel, and the parties and their counsel shall be notified in writing accordingly. The facilities of the applicable county courthouse shall be made available, as convenient, by the clerk, for the purposes of such hearing.

519-A:3 Submission of Claim to Hearing Panel; Proceedings. The claim shall thereupon be submitted to the hearing panel, composed as aforesaid, in an informal manner and under such procedural rules as may be laid down by the judicial referee, provided that strict adherence to the technical rules of procedure and evidence applicable in the case of jury trials shall not be required, in the discretion of said judicial referee. Witnesses may be called, all testimony shall be under oath, testimony can be taken in either oral or written form, copies of records, x-rays, and other documents may be produced and considered by the hearing panel and the right to subpoena witnesses and evidence shall obtain as in all other proceedings conducted in the superior court. The right of cross-examination shall obtain as to all witnesses who testify in person, and such cross-examination shall be conducted in an orderly, dignified manner, subject to the control of the hearing panel under the rules laid down by the judicial referee. Both parties shall be entitled, individually, and through counsel, to make opening and closing statements. No transcript or records shall be required to be made as to the testimony or other proceedings, but any party desiring same shall be entitled to arrange for a competent stenographer to record and transcribe such proceedings, provided he pay the expense thereof, and such transcript may be

used in any subsequent proceedings relating to the same cause under the rules applicable to depositions. The hearing panel may retain custody of any exhibits admitted as evidence until a decision has been rendered by the panel, at which time any such exhibits shall be returned to the party who supplied same.

519-A:4 Decision of Hearing Panel. Within thirty days after the completion of any hearing, the hearing panel shall file a written decision with the clerk of court, who shall thereupon mail copies thereof to all parties concerned and their counsel. Such decision shall be in accordance with the law of New Hampshire as applicable to such cases in the judgment of the hearing panel, and shall be in the form of a decision in favor of the claimant specifying the amount of money damages deemed to be just compensation to him on account of the injuries and other damages found to have been sustained by him, or in favor of the person against whom the claim is made. No allowance or provision shall be made for costs or interest. The decision shall be signed by all members of the hearing panel and shall be as brief and precise as the circumstances reasonably permit; provided, however, that any member of said panel may file a written concurring or dissenting opinion giving his reasons therefore.

519-A:5 Proceedings Subsequent to Decision of Hearing Panel. Within thirty days following the date of the decision of the hearing panel, the parties shall file written notice with the clerk, with copies to each other of their acceptance or rejection of said decision. If both parties accept said decision, the party against whom any damages are assessed shall pay, or cause same to be paid to the prevailing party within sixty days of said decision. In the event that either party or both parties reject the decision of the hearing panel, the claimant may nonetheless institute litigation in any appropriate court arising out of the circumstances giving rise to the claim heard by the panel.

519-A:6 Expert Witnesses Unnecessary. Neither party, in any proceeding in this chapter, shall be required to produce expert testimony as a prerequisite to a decision in his favor; but the hearing panel may consider the absence of such testimony, along with all other relevant and material factors, evidence, and exhibits, in determining whether the applicable standard of care has been met or the burden of proof sustained, in the circumstances.

519-A:7 Locality Rule Inapplicable. In determining whether the person against whom a malpractice claim has been made has met the applicable standard of care, the hearing panel shall not be bound or limited by the standard of care accepted or established with respect to any particular geographical area or locality, but shall consider only whether the person against whom the claim is made has acted with due care having in mind the standards and recommended practices and procedures of his profession, and the training, experience and professed degree of skill of the average practitioner of such profession, and all other relevant circumstances.

519-A:8 Right of Privacy and Integrity of Proceedings. All proceedings, records, findings and deliberations of a hearing panel shall be confidential and shall not be used in any other proceedings, or otherwise publicized, except as herein provided, nor disclosed by any party, witness, counsel, panel member, or other person, on penalty of being found in contempt of court. The manner in which a hearing panel and each member thereof deliberates, decides, and votes, on any matter submitted to it, including whether its final decision is unanimous or otherwise, shall not be disclosed or made public by any person, except as herein provided.

519-A:9 Rules of Court. The superior court may, from time to time, promulgate, amend, and modify rules to carry out and better implement the purpose of this chapter and proceedings conducted hereunder.

2 Statute of Limitations. The date of receipt by the clerk of a claim submitted to the provisions of this chapter shall be considered the date of institution of action for purposes of the applicable statute of limitations.

3 Effective Date. This act shall take effect on January 1, 1972, and shall be applicable to and govern all claims arising out of injuries and other damages sustained on and after said date.

Sen. JACOBSON: Mr. President, SB 240 establishes a procedure for the evoking of claims from legal or medical malpractice. As all of you know, this is a critical and controversial area. What this bill does is establish a panel consisting of twelve laymen, twelve doctors, twelve dentists (which is part of the amendment) and twelve lawyers.

The amendment has to do with the business of the locality rule which is clarified. The locality rule is made inapplicable. Under the old tradition, the judgment was made under what happened in a local practice. This was valid at a time when the average dentist, medical practitioner or lawyer got his training from another in his profession. But with the universalization of training, it seemed unnecessary to have that kind of procedure. In essence, this provides an alternative way in which to handle this critical matter of malpractice in these three basic areas.

Amendment adopted. Ordered to third reading.

SB 250

to eliminate unfair insurance practices. Ought to pass. Sen. Koromilas for Judiciary.

Sen. SPANOS moved that SB 250 be laid on the table.
Adopted.

SB 252

requiring that motor vehicle manufacturers post a bond to guarantee warranties on new motor vehicles sold in this state. Ought to pass with amendment. Sen. Poulsen for Public Works and Transportation.

AMENDMENT

Amend the bill by striking out RSA 259-B:2 as inserted by section 1 of the bill and inserting in place thereof the following:

259-B:2 Bond Required. Any manufacturer selling one or more new motor vehicles in this state on transferring one or more new motor vehicles to a dealer for eventual retail sale in this state which motor vehicles are subject to any manufacturer's express or implied warranty or to any warranty imposed by operation of law shall have filed with the director of motor vehicles acceptable evidence of a surety bond, in such form as the director shall approve. The bond shall be in the sum of ten thousand dollars for each one hundred motor vehicles sold or transferred for sale in this state during the preceding calendar year for the use and benefit of the division of motor vehicles and any person who may suffer or sustain any loss by reason of the breach of any of the said warranties in the sale of such motor vehicles.

Sen. POULSEN: Mr. President, the amendment changes the amount of the bond. The bill itself makes it mandatory for the manufacturer of cars sold in this state to bond their guarantees. The Committee recommends its passage.

Amendment adopted. Ordered to third reading.

SB 258

relative to the budget and appropriations procedure for the Manchester Water Works and limiting the power of the Water Commission to extend said works outside the city. Inexpedient to legislate. Sen. Poulsen for Public Works and Transportation.

Resolution adopted.

SB 262

relative to the alteration and construction of odometers and the protection of motor vehicle purchasers. Ought to pass. Sen. Poulsen for Public Works and Transportation.

Sen. POULSEN: Mr. President, SB 262 was sponsored by the Automobile Dealers' Association and it protects car buyers. It makes it mandatory for dealers to do certain things and also makes it mandatory for cars to come equipped with untamperable speedometer or odometer and also puts the same stipulations of other motor driven machinery — tractors and any others which have odometers. We feel this is particularly good legislation and ought to pass.

Adopted. Ordered to third reading.

HB 591

relative to organized time trials for motor vehicles on certain public highways. Ought to pass. Sen. Poulsen for Public Works and Transportation.

Sen. POULSEN: Mr. President, this is a bill which is primarily for time trials of motor cars. It simply gives the selectmen of a town the right to give permission to such people, with the permission of the abutting land owners, to conduct time trials on Class V and Class VI highways. There was no objection to the bill. It is a local matter — selectmen have the right, under this bill, to allow these time trials. We recommend it ought to pass.

Sen. FERDINANDO: Did you say this was just for motorcycles?

Sen. POULSEN: No, sir. I said this was primarily for motor cars, but could be used, under some circumstances, for motorcycles.

Adopted. Ordered to third reading.

HB 705

relative to the date of expiration of legislative number plates. Ought to pass with amendment. Sen. Lamontagne for Public Works and Transportation.

AMENDMENT

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Time of Expiration. Amend RSA 260:11-a as inserted by 1959, 226:1 by striking out said section and inserting in place thereof the following:

260:11-a Legislative Number Plates. Notwithstanding any other provisions of law any motor vehicle number plates issued to a member of the general court shall expire on the second Wednesday of January after the expiration of his term of office as such member.

2 Effective Date. This act shall take effect sixty days after its passage.

Sen. POULSEN: Mr. President, the amendment eliminates the House amendment so that, in essence, we go back to the original bill, HB 705, which simply makes legislative plates expire on the second Wednesday of January after the expiration of the legislators' term of office. That is the whole bill and we recommend that it ought to pass.

Amendment adopted. Ordered to third reading.

RECESS

COMMITTEE REPORTS CONTINUED

SB 190

to establish a state liquor store in New London and making an appropriation therefor. Ought to pass. Sen. Snell for Ways & Means and Administrative Affairs.

Sen. SNELL: Mr. President, SB 190 was introduced by Sen. Jacobson. In the testimony at the hearing, Sen. Jacobson pointed out that the Liquor Commission conducted a survey

and study that proved that the Town of New London would be able to operate a liquor store. It was the feeling in our committee that we should refer this to Senate Finance because of the sum of \$50,000 to be appropriated for this act and I hope that the Senate will see fit to send this to Finance so that they may come in tomorrow with "ought to pass" so we can send this on to the House.

Referred to Finance.

SB 198

establishing a permanent probation office in municipalities with a population over fifty thousand persons. Ought to pass with amendment. Sen. Leonard for Judiciary.

AMENDMENT

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Probation Office for Certain Municipalities. Amend RSA 504:13 by inserting in line five after the word "board" the words (The board shall assign a permanent full-time probation officer to any municipality with a population of over fifty thousand persons, if all facilities for the operation of such an office are provided by the municipality.) so that said section as amended shall read as follows: 504:13 Selection and Assignment. State probation officers shall be appointed by the board upon recommendation of the director, subject to the regulations of the state personnel system. Such officers shall be assigned to and reside in counties or districts of the state to be designated by the board. The board shall assign a permanent full-time probation officer to any municipality with a population of over fifty thousand persons, if all facilities for the operation of such an office are provided by the municipality. Municipal courts in towns and cities having a population of over fifty thousand shall and other courts may appoint one or more qualified probation officers for their respective courts. No municipal probation officer shall qualify for office until his appointment thereto has been approved by the board and all such officers shall be subject to supervision by the board and each shall hold his office during the pleasure of the board.

Sen. LEONARD: Mr. President, the basic thrust of SB 198 is to have a permanent probation office in cities in towns

of over 50,000 people. The amendment states as follows: "if all facilities for the operation of such an office are provided by the municipality." There is a permanent office in Manchester so the only other involved city would be Nashua, which is the county seat. Nashua had such an office but a year ago, the office was transferred to Manchester where the citizens of Nashua now have to travel to seek a probation officer.

Sen. McCARTHY: What does this involve?

Sen. LEONARD: This involves having an office in Nashua which we do not presently have. A year ago, they took the office from Nashua and placed it in Manchester. This was a big inconvenience to the public. This does not involve new funds because the amendment provides that the facilities of the office will be provided by the municipality of the county. The county commissioners have assured me that they will provide for this office in the old Court House in Nashua at no rent for the first year.

Amendment adopted. Ordered to third reading.

ENROLLED BILLS REPORT

HB 310, relative to recoveries by the division of investigation of accounts.

HB 348, enabling the Department of Fish and Game to recover damages for loss of fish, other aquatic life, wildlife or their habitat due to water pollution.

HB 464, relative to participation in the work incentive program.

HB 540, amending the charter of the union school district of Keene to provide that the treasurer be appointed by the school board.

HB 544, to provide for review of area school plan and withdrawal after the third anniversary.

HB 564, relative to increasing the membership of the Advisory Commission on Health and Welfare.

HB 615, permitting abatement of uncollectible interest and dividend taxes.

HB 652, to exclude animals from restaurants and stores that sell food.

HB 689, providing that bow nets and dip nets may be used in certain rivers.

HB 690, providing a closed season for salt water smelt.

HB 822, relative to the enforcement of regulations of the Director, Division of Welfare.

HB 872, to amend the charter of New England College.

SB 161, increasing the penalties for throwing trash on highways or highway right-of-ways.

HB 477, relative to fees for registration as professional engineer.

Sen. Ferdinando
For The Committee

SPECIAL ORDER OF BUSINESS AT 1:01

SB 221

amending the charter of the City of Nashua to provide for the appointment of library trustees by the mayor subject to approval by the board of aldermen. (Req. by Sen. Leonard)

Sen. LEONARD: Mr. President, SB 221 amends the city charter and provides that the members of the board of library trustees be appointed by the mayor. The present law was enacted in 1917 and has been in effect for 54 years. This provides that if there is a vacancy on the board of library trustees, the board of aldermen and the board of library trustees sit in joint session and select the new member for the board. Over the past 54 years, the library trustees have worked admirably. They have given excellent facilities to Nashua. I have heard no complaint during my lifetime as to the way this board is operated. The board consistently represents the cream of the crop. Presently, it is served by Supreme Court justices, businessmen, well-known people interested in the City of Nashua. They are all against this bill. Mr. Elliot Carter of Nashua, who has been interested in the library for many years, testified against this bill. Within the last two or three years, he gave the City of Nashua over \$1 million to build a new library which is now in construction at the present time. The Mayor of Nashua is interested in this bill because it gives him the authority to appoint members of this board.

Nashua has always had a form of government whereby the board of aldermen has the authority to make most of the appointments and in the case of library trustees and cemetery trustees, they do so jointly. I have heard no public swell of opinion behind this bill. I think that we are operating very well at the present time and there is no need for change.

I asked for a Special Order on this bill so that Sen. Downing and I could talk it over but I feel, as do those who have contacted me, that I am against this bill and I go along with the Committee's recommendation that it be made "inexpedient to legislate."

Sen. DOWNING: Mr. President, I move that the words, "ought to pass" be substituted for "inexpedient to legislate." I think the passage of this bill is very important. I submitted this bill at the request of the Mayor of Nashua. There are a number of people in that city that are concerned with the present method of electing the library trustees. Contrary to the previous testimony which you have heard, we will not decide today how the trustees are to be elected. This bill merely provides for a referendum so the people of Nashua can make that decision. They cannot now change the charter or have a referendum to change it without our permission. To vote this bill inexpedient would be to deny them of their right to decide what they want to do in their city.

The question has been raised on division. There are a number of people on both sides of the question. Some are satisfied with the present set-up but there are others who are not satisfied and feel that there is a better way of doing. I urge your support of this bill.

Sen. S. SMITH: Isn't it true that the other commissions and boards in the City of Nashua are elected on the same basis as the library board?

Sen. DOWNING: No, I don't believe they are.

Sen. S. SMITH: Wasn't there testimony in the Committee that there were other commissions that are elected on the same basis?

Sen. DOWNING: The testimony in the Committee referred to a vacancy in the Public Works Department and it was pointed out that the vacancy was due to a death.

Sen. LEONARD: Mr. President, under the present charter of Nashua, the mayor has no power of appointment of any office. The charter was amended two years ago by the Senate and the House and was approved by referendum vote so in January of next year, the mayor will have limited power of appointment. The mayor, for many years, has had a vendetta against the library board and that is all this bill is — the mayor's personal vendetta. He has been in the newspapers for many years concerning the library. He was against the building of the new library even though the money was furnished by a citizen. This bill does not have the backing of the citizens of Nashua.

Sen. DOWNING: What has this personality question got to do with the referendum question?

Sen. LEONARD: This is not merely a referendum question as you said. This is an amendment to the charter of the City of Nashua and by a bill passed three or four years ago by us, any amendment to the charter must be approved by referendum. This is not just a referendum question — this is an amendment on the charter.

Sen. DOWNING: Isn't it a referendum as to whether the charter should be amended or not?

Sen. LEONARD: That is right — any change in the city charter must be approved by a referendum.

Sen. DOWNING: And doesn't this bill merely provide for that referendum so that the people can decide whether they want to change their charter or not?

Sen. LEONARD: No, it doesn't. This bill amend the charter. This is the exact amendment of the charter. The actual change is done right here.

Sen. DOWNING: The bill states the amendment they would like to make to the charter. But, it does not, in fact, amend the charter until it is voted by referendum — am I correct?

Sen. LEONARD: No, that is not correct. This is an amendment subject to the approval of the citizens on referendum.

Sen. S. SMITH: Wouldn't this bill make the mayor a more powerful figure within the city government?

Sen. LEONARD: That is right. It would give him power of appointment of the library trustee that he does not have over any other board.

Sen. S. SMITH: Didn't the people adopt this charter by referendum?

Sen. LEONARD: Yes.

Question on substituting "ought to pass" for "inexpedient to legislate."

Division taken: Result: 10 Yeas, 6 Nays.

Adopted. Ordered to third reading.

SUSPENSION OF THE RULES

Sen. DOWNING: Mr. President, I move that the rules of the Senate be so far suspended as to allow SB 221 to be put on third reading at the present time.

Adopted.

THIRD READING AND FINAL PASSAGE OF SB

SB 221, amending the charter of the City of Nashua to provide for the appointment of library trustees by the mayor subject to approval of the board of aldermen.

Question on passage of SB 221.

Roll Call requested by Sen. Leonard. Seconded by Sen. S. Smith.

Yeas: Sens. Snell, Townsend, Spanos, English, Ferdinando, McCarthy, Brown, Downing, Tufts, Foley.

Nays: Sens. Poulsen, S. Smith, Gardner, Jacobson, Porter, Leonard, Koromilas.

Result: 10 Yeas, 7 Nays.

Adopted.

Sen. Downing moved reconsideration.

Motion lost.

SPECIAL ORDER OF BUSINESS AT 1:02

SB 28

requiring inspection and certification of gasoline, oil, and petroleum storage facilities by certain fire officials, and report-

ing same to Water Supply and Pollution Control Commission.
(Req. by Sen. Jacobson)

AMENDMENT

Amend the bill by striking out the title and inserting in place thereof the following:

AN ACT

requiring inspection and certification of petroleum storage facilities and establishing a fee therefor.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Certification of Fuel Storage Facilities Required. Amend RSA 153 by inserting after section 26 the following new sections:

153:27 Certification for Storage. No commercial storage facility for gasoline, oil, or petroleum shall be operated in this state after January 1, 1972, unless such facility has been inspected, certified, and licensed by either the state fire marshal or his authorized officers. A report of such inspection and certification shall be filed annually with the water supply and pollution control commission.

153:28 Inspection. The state fire marshal or his authorized officers shall annually, or more often if necessary, make an inspection, and certify that said facilities conform to the requirements of this chapter and conform to all regulations promulgated pursuant to RSA 153:5 and RSA 153:14.

153:29 Licenses. The owner of any commercial storage facility which has been inspected and certified pursuant to the provisions of RSA 153:28 shall upon application to the state fire marshal be issued a license to operate, which shall expire annually on December thirty-first.

153:30 Fees. A fee of fifty dollars shall be paid to the state fire marshal's office and shall accompany each application.

153:31 Inventory by Towns. The selectmen of each town shall annually before August first, send to the state fire marshal a list of the commercial storage facilities for gasoline, oil, or petroleum, in their respective towns.

2 Effective Date. This act shall take effect sixty days after its passage.

Sen. Jacobson offered the following amendment:

AMENDMENT

Amend section 1 of the bill by inserting after RSA 153:31 as inserted therein the following new section:

153:32 Application. The provisions of RSA 153:27 through 31 shall not apply to the storage of motor fuels and other petroleum products held solely for retail sale.

Sen. PORTER: Mr. President, I explained the Committee amendment and Sen. Jacobson was kind enough to point out that we should include an additional amendment to insure the elimination of smaller dealers from this bill.

Sen. JACOBSON: Mr. President, what this amendment does is to exclude those who are involved *only* in retail sales of gasoline and fuel oil from the provisions of the chapter of bill so that the small gasoline dealer will not have to pay these fees.

Sen. GARDNER: Mr. President, I am very pleased with the progress of this bill and the amendment.

Sen. PORTER: Mr. President, I endorse the amendment offered by Sen. Jacobson. It has been very difficult to get the exact wording and I am very pleased with this.

Amendment adopted. Ordered to third reading.

SPECIAL ORDER OF BUSINESS AT 1:03

SB 216

to prohibit the operation of motorboats upon Turtle Town Pond in Concord. (Req. by Sen. Jacobson)

AMENDMENT

Amend the bill by striking out section 1 and inserting in place thereof the following:

Motorboats Prohibited on Turtle Town Pond. Amend RSA 486 by inserting after section 10 the following new section: 486:11 Turtle Town Pond. On or after the date of the passage of this act, no person shall use or operate any motor-

boat or other boat equipped with an outboard motor or other mechanical power, for commercial or related purposes, with the exception of boats powered by wind, upon the waters of Turtle Town Pond in the city of Concord. Whoever violates any of the provisions of this section shall be fined not more than fifty dollars.

Sen. JACOBSON: Mr. President, I had the opportunity to check with the persons who are involved and was informed that they have no objection to the bill with the amendment, therefore, I recommend that it ought to pass with amendment.

Adopted. Ordered to third reading.

SPECIAL ORDER OF BUSINESS AT 1:04

SB 219

relative to state employees' compensation. (Req. by Sen. Spanos)

Sen. SPANOS: Mr. President, I move that the words, "ought to pass" be substituted for the Committee Report, "inexpedient to legislate". SB 219 provides that state employees may elect to defer to receive certain portions of their weekly compensation until a later date, generally when they are about to retire. This cannot be done under the current state law. One of the purposes of deferring compensation is to minimize the payment of income taxes until a late date — to pay them not now but at some subsequent time when they receive this compensation back from the state, which they have told the state to take out of their paycheck. It also provides for a means for these people for their late years. In other words, they can put aside money so that they will have some available when they do retire. This is why the U. S. Government has adopted this philosophy to allow for people to pay their income tax at a later date when they receive their compensation back from the state.

Under Internal Revenue laws, self-employed people, doctors, lawyers, small businessmen, non-profit organizations, teachers, etc. can avail themselves under the provisions of the law which is called the Tax Annuity System. You can deduct from your salary a portion of your money. You do not have to report it at this time. You can put it into an investment program — mutual funds, annuities, insurance contracts — then when

you retire, you then will pay an income tax on that portion. Almost everyone is under this system. The federal government also allows for what they call "deferred compensation" for people involved in governmental affairs. This is what this is. This gives people the opportunity to have a retirement program now while they have the earning capacity and not later. This is a national policy — this is not state policy.

To argue as Sen. Porter did yesterday when he reported the bill "inexpedient" that deferment of the payment of taxes now puts an additional burden on the rest of us to meet and pay for those lost taxes flies in the face of obvious, calculated, national tax policies. The law is as it is. If you were to carry the argument offered by Sen. Porter to its full extent, then you would have to logically conclude that we should oppose the investment credit. We should oppose the oil depletion allowance. We should impose depreciation. We should oppose charitable contribution — all of which, incidently, are tax relief, tax deferments for certain people and we pay for these tax incentives. You might even exempt municipal bonds.

I hope you will support the motion to substitute.

Sen. BROWN: When a self-employed person does this for himself, does he not also have to do it for his help?

Sen. SPANOS: Correct.

Sen. ENGLISH: Isn't there a lot of clerical work and expense involved in taking care of this service?

Sen. SPANOS: I did speak with the Comptroller this morning and he informed me that it would be of no great consequence unless the program reached significant magnitude and unless many state employees became involved in it. He himself indicated to me that he did not contemplate that occurring. He feels that he can handle it and when they go on the computer system, it won't be anything at all.

Sen. SNELL: Who generally would take advantage of this program?

Sen. SPANOS: That is difficult to answer. I don't know but I would imagine it would be some of those in a higher bracket would be the ones concerned about this program — but how high is that bracket — but it is at least broad enough to

cover the many whose salary is \$8,000 to \$11,000 or what have you.

Sen. SNELL: Would you consider this piece of legislation to be for the wealthy?

Sen. SPANOS: No, I don't.

Sen. KOROMILAS: Would this apply to both classified and unclassified employees?

Sen. SPANOS: Yes.

Sen. KOROMILAS: Is this a voluntary thing?

Sen. SPANOS: Yes.

Sen. MCCARTHY: Mr. President, I rise in favor of Sen. Spanos' motion. I have been familiar with these tax deferments and I think it is definitely to the advantage of the individual concerned but also to the companies who specialize in this.

Question on substituting "ought to pass" for "inexpedient to legislate."

Division taken: Result: 8 Yeas, 9 Nays.

Motion lost.

Roll Call requested by Sen. Spanos. Seconded by Sen. Koromilas.

Yeas: Sens. Snell, Townsend, Jacobson, Spanos, McCarthy, Koromilas, Downing, Tufts, Foley.

Nays: Sens. Poulsen, S. Smith, Gardner, English, Porter, Leonard, Ferdinando, Brown.

Result: 9 Yeas, 8 Nays.

Adopted. Ordered to third reading.

SUSPENSION OF THE RULES

Sen. S. SMITH: Mr. President, I move that the rules of the Senate be so far suspended as to dispense with the printing of SB 317, to repeal charters of certain corporations. SB 317 is the biennial bill to repeal charters of certain corporations. It was just brought in and I would hope that the Senate would go along with it due to its extreme length.

Adopted.

Sen. SPANOS moved the Senate do now adjourn from the early session and that on third reading, all bills be read by title only and resolutions by captions only and that when the Senate adjourns today, it be until tomorrow at 1 o'clock.

Adopted.

LATE SESSION

Third reading & final passage

SB 145, relative to construction attachments.

Sen. Spanos moved reconsideration. Motion lost.

SB 28, requiring inspection and certification of petroleum storage facilities and establishing a fee therefor.

Sen. Porter moved reconsideration. Motion lost.

SB 219, relative to state employees' compensation.

Sen. Porter moved reconsideration. Motion lost.

Sen. Spanos moved that the following listed bills and resolutions be hereby each read a third time, bills by their titles only and resolutions by their captions only, and that each of said listed bills and resolutions be hereby passed.

SB 183, relative to the allowable width of certain vehicles.

HB 804, legalizing the proceedings establishing the Shaker Regional School District and amending the articles of agreement of said district.

SB 150, requiring that the mayor of the City of Nashua be elected by majority vote and providing for a run-off election to the same.

HB 468, clarifying the provisions of the statute that tax deeds shall be given by the collector in office.

HB 548, relative to the use of the state seal.

SB 267, establishing a remote terminal providing information on federal funds in the office of the coordinator of federal funds.

HJR 54, making a supplemental appropriation for the racing commission.

SB 195, giving the Director of Safety Services and his authorized representatives the power of arrest in the enforcement of

laws relative to operation of boats by a person under the influence of liquor or drugs.

SB 261, providing for reciprocity in motor vehicle citations.

SB 284, providing for the establishment of a Court Accreditation Commission.

SB 286, providing for the waiver of court costs and fees in certain cases.

SB 294, relative to certain duties of the superior court.

SB 295, providing for the appointment of acting assistant county attorneys so as to permit speedier disposition of criminal cases.

SB 302, prohibiting discrimination because of age or sex.

SB 303, relating to the jurisdiction of the supreme court.

SB 172, relative to the judicial process.

SB 199, relative to actions by and against tenants.

SB 200, relative to indemnification agreements between architects, engineers or surveyors and owners, contractors, subcontractors or suppliers.

SB 229, to limit the holder in due course doctrine in consumer credit sales.

SB 240, to provide a procedure for the disposition of claims arising from legal or medical malpractice.

SB 252, requiring that motor vehicle manufacturers post a bond to guarantee warranties on new motor vehicles sold in this state.

SB 262, relative to the alteration and construction of odometers and the protection of motor vehicle purchasers.

HB 591, relative to organized time trials for motor vehicles on certain public highways.

HB 705, relative to the date of expiration of legislative number plates.

SB 198, establishing a permanent probation office in municipalities with a population over fifty thousand persons.

SB 216, to prohibit the operation of motorboats upon Turtle Town Pond in Concord.

Motion adopted.

SB 105, relative to the issuance of property, liability and automobile insurance. (Passed under suspension)

SB 221, amending the charter of the City of Nashua to provide for the appointment of library trustees by the mayor subject to approval of the board of aldermen. (Passed under suspension)

Sen. Townsend moved the Senate adjourn at 5:43 P.M.

Thursday

10Jun71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Guest Chaplain, Rev. Jack Wyrzten, International Director of The Word of Life Fellowship of New York.

Daniel Webster said in these chambers — "No one knows the great catastrophe that will befall our nation if we leave the Bible on which our country was founded. The Bible says "Righteousness exalteth a nation; but sin is a reproach to any people." "The wicked shall be turned back into hell and all nations that forget God." The Bible also says — "Wise rulers stamp out crime by severe punishment and where there is no knowledge of God, the people run wild." We realize today that our people are running wild because there is little knowledge of God in the land. We are living in a sad, sick, disillusioned world, but we thank Thee that we can have peace with God as individuals because the Prince of Peace, Jesus Christ our Lord, the Maker of Heaven and Earth who came from the Heavens that He made with His own hands to this sinned cursed earth to die and shed His blood for our sins. We thank Thee that He arose from the grave and that today He lives

at the Father's right side and that one day He will come back as Ruler of all nations, and that when He comes we will have peace on earth and good will toward man. Until that day, give us wisdom and guidance as we conduct the affairs of state. May there be return in our land of a new love for God, for country and for decency. May the revivals of the early days of our beloved nation once again sweep this land of ours for we pray in Jesus name. Amen.

Pledge of Allegiance was led by Sen. English.

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 92, relative to the correction of tax laws due to repeal of stock in trade and other taxes. (Ways & Means & Administrative Affairs)

HB 512, relative to conservation officers and their pay schedule. (Recreation & Development)

HB 543, to increase the fees for nonresident hunting licenses. (Recreation & Development)

HB 592, relative to New Hampshire technical institute and vocational-technical colleges bookstore operation. (Education)

HB 727, to insure completion of sewerage and pollution control projects. (Resources & Environmental Control)

HB 883, relative to petitioning articles in the warrant concerning planning boards and zoning. (Executive Departments, Municipal & County Governments)

HB 945, relative to the effective date of rules and regulations affecting child-caring agencies. (Public Health & Welfare & State Institutions)

HB 950, providing for the appointment of a superintendent of the the house of corrections of Belknap county. (Executive Departments, Municipal & County Governments)

HB 953, amending the charter of the town of Hanover to provide that the board of selectmen shall act as the housing authority. (Executive Departments, Municipal & County Governments)

HB 980, relative to the duties of building inspectors. (Executive Departments, Municipal & County Governments)

HB 985, relative to contested elections to the legislature. (Executive Departments, Municipal & County Governments)

HB 986, relative to transfer of prisoners. (Public Health, Welfare & State Institutions)

HB 988, establishing a committee to study search and rescue costs and other problems related to such missions. (Recreation & Development)

HB 989, relative to the United Baptist Convention of New Hampshire. (Executive Departments, Municipal & County Governments)

HB 992, relative to regulation of private schools. (Education)

HB 993, relative to the enforcement of the election laws. (Executive Departments, Municipal & County Governments)

HB 999, relative to discarded refrigerators. (Public Health & Welfare)

HB 1001, relative to amending the charter of the First Congregational Society of Gilmanton. (Executive Departments, Municipal & County Governments)

HB 1006, permitting local votes on the questions of Sunday sales to be by special election. (Ways & Means & Administrative Affairs)

HB 7, relative to the preservation of open space land in New Hampshire and establishing an open space land study commission. (Resources & Environmental Control)

HB 331, amending the business profits tax. (Ways & Means & Administrative Affairs)

HB 584, relative to the form of drivers licenses and making an appropriation therefor. (Public Works & Transportation)

HB 943, relating to professional standards review organizations of physicians and surgeons. (Judicial)

HB 957, relative to election and terms of office of members at large of town budget committees. (Executive Departments, Municipal & County Government)

HB 991, establishing an interim committee to study no-fault automobile insurance. (Banks, Insurance & Claims)

HB 994, legalizing certain meetings of Newfields sewer district, Barnstead school district, Mascoma Valley regional school district and in the towns of Rye, New Durham and Washington. (Executive Departments, Municipal & County Governments)

HB 1007, providing for an emergency temporary zoning ordinance and for its adoption by the selectmen. (Executive Departments, Municipal & County Governments)

HJR 55, establishing a special committee to study the effectiveness of the laws relating to access to and use of public buildings by the physically handicapped. (Public Health & Welfare & State Institutions)

HOUSE MESSAGES

SENATE CONCURRENCE TO HOUSE AMENDMENT

SB 187, relative to service of process against foreign corporations.

(See HJ 9 June 71 for amendment)

Sen. NIXON moved concurrence.

Adopted.

HOUSE NON-CONCURRENCE

SB 3, restricting the sale, possession, and sniffing of model glue.

HOUSE CONCURRENCE TO SENATE AMENDMENTS

HB 275, authorizing towns to make by-laws relating to hazardous pits.

HOUSE CONCURRENCE

SB 130, relative to expert witness fees in superior court cases.

SB 185, increasing the exemptions from attachment and execution of certain property.

ENROLLED BILLS REPORT

HB 277, relative to the power of the New England Aeronautical Institute, Hesser College, McIntosh College, White

Pines College, Franconia College, Concord College, Pierce College and New Hampshire College, to grant degrees.

HB 578, to amend the New Hampshire higher educational and health facilities law.

Sen. Ferdinando
For the Committee

NOTICE OF RECONSIDERATION

Sen. FERDINANDO served Notice of Reconsideration on:

SB 221, amending the charter of the City of Nashua to provide for the appointment of library trustees by the mayor subject to approval by the board of aldermen.

PARLIAMENTARY INQUIRY

Sen. DOWNING: This was reconsidered yesterday.

CHAIR: Notice of reconsideration cannot lay. Yesterday it was reconsidered and failed.

The Chair appointed Sen. Koromilas to escort the Honorable Claude Pepper to the rostrum.

Sen. Koromilas introduced Congressman Pepper, who addressed the Senate

ANNOUNCEMENT

The Chair will call a recess at approximately 3:00 p.m. which will last one-half hour. All Committee Chairmen are to meet in the President's office. We will then continue to work on the Calendar as printed, if it becomes obvious that we will not be out of here by 7:00 p.m. or reasonably in that area, it is the intention of the Chair to recess until tomorrow morning at 9:00 a.m.

COMMITTEE REPORTS

SB 249

to establish trustee powers of building and loan associations, cooperative banks or savings and loan associations. Ought to pass. Sen. Ferdinando for Banks, Insurance & Claims.

Sen. FERDINANDO: Mr. President, SB 249 enables trustees of building and loan associations, cooperative banks and savings and loan associations to have the power to estab-

lish themselves as trustees under the retirement plan. In the event of any such retirement plan constitutes such a plan under the provisions of the SELF-Employed Individuals Retirement Act of 1962, the Association may continue to act as trustees. The Committee recommends its passage.

Adopted. Ordered to third reading.

TAKEN FROM TABLE

Sen. SPANOS: Mr. President, I move that SB 250 be taken from the table.

Adopted.

SB 250

to eliminate unfair insurance practices. Ought to pass. Sen. Spanos for Judiciary.

Sen. FERDINANDO: Mr. President, I move that the words, "refer to Legislative Study Committee" be substituted for the Committee Report, "ought to pass". SB 250 was introduced to eliminate unfair insurance practices in the interest of the consumer. I, for one, have always been in favor of bills that relate to consumer protection. But, on this particular bill, I would appreciate it if every member of the Senate would look into their book so I could indicate what we are doing with this bill.

There is a \$2500 fine if the stipulations of this bill are not met. In one section, the words, "intent to deceive" are not present and these words are necessary because errors can be made. On page 6 of the bill, under section 5, Unfair Discrimination — "making or permitting any unfair discrimination between the individuals. . . ." That sentence prohibits a life insurance company from charging different premiums for different age groups. This language could force them out of business. On page 6 — "Refusal to Insure Risks" — this would stop a life insurance company from refusing to write a risk no matter what the age. If a person was 85 or 90, they could not refuse to insure him and would be subject to a \$2500 fine.

The life insurance agent or the independent agent would be forced to write these people. If I did not want to do business with you, I would be subject to a \$2500 fine from the wording of this bill. On page 6 Section D — Making or permitting any Unfair Distinction or Discrimination on any Contract — this section would allow no discriminations to persons of different

locality in the state or to persons with driving records. The whole concept here is that the auto fire and auto classifications are set up on a standard. The wording of this bill is contradictory to the intent, I am very sure. If anyone did not adhere to these provisions, they would be subject to a \$2500 fine on each occasion.

On page 9 — Collecting Proper Premium — as it now reads, a premium charge would be prohibited. On page 10 — Coverage Reduction — this would be an increase in premium due to a rate classification not due to rate increase. What would you do in a situation like this? If you had a member in a family who was subject to that particular policy who had three speeding violations and two accidents, you could not charge him the proper premium for you would be subject to this \$2500 fine. On page 11 — Section 6 — this prohibits the adopting of a policy of appealing awards in favor of the insured or claimant in order to make him accept a settlement less than the amount awarded in arbitration. I can see many instances where the award in arbitration may be, in the opinion of the insurer, excessive.

On page 11, Section 9 — Attempt to Delay the Investigation or Payment of Claims — both of these provisions contain substantially the same information. The requiring of the preliminary claims report is common practice to settle a claim so that a company may proceed expeditiously toward the filing of the claim. If they don't do this, it is a \$2500 fine. On page 11a — Failure of insurer to maintain a complete record of all complaints whether or not they were deemed valid or not — is this fair?

Members of the Senate, the insurance agents are constantly getting complaints. Many of these are not valid and if a company did not keep this record, they would be subject to a \$2500 fine. Companies can absorb the fines and in some cases, reflect it back onto the consumer. But, most of the agents in this state cannot afford \$2500 or they will be out of business.

We go on — page 13 — Complaint Handling Procedures — this section requires a completely separate organization, headed by responsible officers, to process and respond to policyholders' complaints. This is an extra expense I could go on and on but because of the time factor, I would just like to point out the major drawbacks. On pages 18 and 19, the way it is here,

when the Commissioner decides that some company has violated this chapter, anyone claiming to have been injured by the act of the company can bring suit against the company and can recover not only damages, but attorney fees. It is also provided that in the trial of such a case, the Commissioner's findings that there has been unfair practices shall be evidence against said company. The contrary to all present procedures since even the findings of a lower court is not admissible as evidence on appeal. We are permitting the Insurance Commissioner to be the judge and jury.

There hasn't been enough time to study this bill and I would hope that on the basis of the problems which can be created to all the insurance agencies, that you would support my motion to refer this to the Legislative Study Committee.

Sen. LAMONTAGNE: Don't you feel that some of these complaints ought to be filed especially when someone makes a complaint to an agency that he was overcharged for premiums?

Sen. FERDINANDO: Whether or not a complaint is valid or not, you have to set up a separate file even if the premium is correct and established and approved. Everything is proper, but because you are complaining to that small agent, he will be forced to pay a fine of \$2500 if he does *not* set up the separate file. How many agents will be in business in your neck of the woods if this bill passes?

Sen. LAMONTAGNE: Don't you feel that some people have the right to lodge a complaint when they feel that they are being overcharged?

Sen. FERDINANDO: Senator, under our existing laws, that person has every right to go make his complaint and have a natural process take its course. I agree with you — there is no question about that.

Sen. KOROMILAS: Mr. President, I rise in opposition to the pending motion. I think the Committee gave Sen. Ferdinando the opportunity to offer his objections and the Committee did, after listening to him, make amendments to the bill. Some of the items he has actually stated have already been corrected in amendments. I think that the bill is a comprehensive one. I know it is very hard for a person to be regulated and I don't blame Sen. Ferdinando for taking his position. Unfortunately, there is a need for this type of legislation. I

think that the consumer has to be protected and the intent of this bill goes a long way in protecting the public. First, it defines and attempts to make the present law clear. It streamlines administrative procedure without sacrificing one single procedural due process provision.

What this bill does is give the consumer the right to take action against an unfair insurance trade practice. I am not suggesting that the insurance companies are policing the public. That is not the case. This is an excellent bill and for that reason, I oppose the pending motion.

Sen. FERDINANDO: Is there one amendment to the bill?

Sen. KOROMILAS: No, there is more than one amendment.

CHAIR: To clarify the situation, the Committee Report is "Report the same without amendment and recommend that it ought to pass".

RECESS

The CHAIR would state that an amendment was submitted and was printed in yesterday's Calendar on page 31.

Sen. FERDINANDO: The only amendments that you have made relate to page 13 of the bill?

Sen. KOROMILAS: If you look further, you will find additional changes.

Sen. FERDINANDO: What are they?

Sen. KOROMILAS: They take care of correcting the proper premium, and your complaint with the proper handling procedures.

Sen. FERDINANDO: But what did you do about section 11a with the failure of the insurer to maintain a complete record of complaints — valid or not valid?

Sen. KOROMILAS: I think your question is a good one. There are many complaints which are made. No one knows whether they are valid or not and they should be reported to the Commission.

Sen. FERDINANDO: Do you mean to say that all the life insurance men and all the independent agents who are operat-

ing on a marginal basis now have to comply with a law that could put them out of business if they don't do so?

Sen. KOROMILAS: I think that the amendment shown on page 32 with respect to complaint handling procedures, makes it very clear that the independent agents do not have to keep these complaints. We are talking about the insurance companies and not agents in the state.

Sen. FERDINANDO: This is not clear in the amendment as far as keeping the records.

Sen. KOROMILAS: It is clear to me.

Sen. MCCARTHY: Sen. Ferdinando, are you interpreting "insurer" as the individual agent?

Sen. FERDINANDO: I will answer that question by going to page 18 where there is a reference to who these people are.

Sen. MCCARTHY: Well, who is the insurer — the agent or the company?

Sen. FERDINANDO: The whole reference to this whole chapter relates to the company, brokers, and agents.

Sen. MCCARTHY: Well, on page 18 is another word — "supplier" which does include the individuals and so forth. But, my only question is on page 11a which seems to be the part you are most concerned about and I want to know is this word, "insurer" is the individual or the company?

Sen. FERDINANDO: There is no question in my mind that it would be to imply the agent, broker and the company.

Sen. NIXON: Mr. President, I rise in opposition to the pending motion and in support of the Committee Report as "ought to pass with amendment". SB 250 was sponsored by Sen. Spanos and for the benefit of the members of the Senate who may have been somewhat confused by the specific nature of some of the questions at hand, this is a broad bill which attempts to protect the people of New Hampshire against practices including fraud, deceit, misrepresentation, false advertising, coercion, intimidation, false financial statements, unfair discrimination, rebates and kickbacks, overcharging, and politi-

cal contributions. It is a bill which, in general terms, would apply to the entire insurance industry. However, some sections of the bill specifically relate to an insurer, which by definition and by general acceptance both legally and in the insurance field, is the insurance company which issued the policy and not the agent. There is no question as to this.

However, after the initial hearing, the Committee Report was ought to pass in original form. Sen. Ferdinando then requested the opportunity to appear personally and in private before the Senate Judiciary Committee and have his views expressed in regard to this bill. This request was granted and he met with us. One of his recommendations was adopted by the Committee referring to the Complaint Handling Procedures. The Committee added the words, "applicable to insurance companies" to make it clear that this particular section would be restricted to insurance companies. In addition to the other amendments concerning the prohibition against distinction or discrimination between persons, the word, "unreasonable" was added so that now you are in violation of the provisions only if you are not reasonable. In addition, "refusal to insure risks solely because of age" was amended by the Committee to exempt from that prohibition the situation in the case of life, accident or health insurance, and also military occupation. In regard to a premium finance charge, the Committee added the words, "except a premium finance charge as allowed by law" so that a company can now charge a premium finance charge if they want to charge more than the premium. The original bill required a company to set up a separate department to handle complaints. We substituted the words, "procedural means," for a "department," to make the requirement reasonable.

All of these amendments were, at least in part, based on Sen. Ferdinando's suggestions and requests. Unless someone takes the position that companies ought to be allowed to engage in misrepresentation, fraud, etc., then I think he would be obliged to support the bill as amended. I might say further in regards to the fine, that any action by the Insurance Commissioner, who does assess the fine in the *first* instance, is subject to appeal to the courts.

On the whole, the Committee felt that the bill was well-drafted and carefully provided for, and it is necessary to pro-

tect the interests of the people of New Hampshire and imposes no undo burden on anyone engaging in ethical practices.

Sen. FERDINANDO: Is it not so that under the present law, there is a section which recognizes a certain action as unfair trade practices which have been defined — the Commissioner would make his findings and report the entire matter to the Attorney General who then goes to court for a determination as to whether an unfair practice has been committed — it is the court who makes the determination? Is it not so that this bill, with respect to this particular practice, allows the Commissioner to begin the procedure by the use of the “show cause” order, the hearing is held and the decision made by the Commissioner whether or not to issue a seize and desist order?

Sen. NIXON: That is what the present law provides and that is exactly why we need SB 250. The Unfair Trade Practice Law, adopted in the late 1940's by all states, is inadequate to protect the public and that is why we need SB 250.

Sen. TOWNSEND: You alluded to the fact that at the hearing, there were several reliable insurance companies, but you did not state what their stand was on this bill.

Sen. NIXON: They were generally against the adoption of the bill.

Sen. SPANOS: Mr. President, SB 250 is not the product of the imagination of the senator from the Eighth District. I sponsored this measure on behalf of the Commissioner of Insurance, Commissioner Durkin. We generally discussed some of the subject matters which would be covered and I was particularly intrigued by one section of this bill which I have always had many difficulties with as a practicing attorney — that is unfair claim practices by the insurers which happens to be one of the important items of this bill. It is one of the most important sections of the act and is one of the reasons why I felt I could support this measure. It does give the Department control over the companies concerning unfair claims settlement. One company which is no longer operating in this state had a claim manager who posted “Friend or Foe, We Pay no Dough,” and “Our Claim to Fame is We Pay no Claim.” This law points out some of the things we should protect the public against. This bill will stop many of the unfair practices which are now occurring.

This is a comprehensive, consumer oriented piece of legislation typical of the Commissioner. As one company executive testified at the hearing, "there is no need to act because the insurance companies have survived pretty well over the last 100 years under the present law." All we ask is that consumer be given the same chance over the next 100 years. I rise in opposition to the pending motion to send this bill to the Legislative Study Committee.

Sen. DOWNING: Sen. Nixon, have any of the insurance companies registered complaints concerning the bill as amended?

Sen. NIXON: Personally, I don't know of any. Those objections which were raised before the amendments were added were corrected with respect to the life insurance situation particularly.

Sen. FERDINANDO: Mr. President, as far as the consumer protection part of the bill, I am in favor of this. But to pass a bill with loopholes which have not been amended is not a good practice. We are talking about classification charges subject to a \$2500 fine. If this was drafted properly, I would support it. It was sent to the wrong committee to begin with. There are a lot of people who wanted to oppose this bill who never had a chance to scrutinize it and present themselves at the Committee hearings. All I am suggesting in my motion is that this bill be given the proper consideration because it does have a serious effect on all the life agents in the State of New Hampshire and that is thousands of people.

Question of referring SB 250 to Legislative Study Committee.

ROLL CALL

Roll Call requested by Sen. Ferdinando, seconded by Sen. Townsend.

Yeas: Sens. Poulsen, Townsend, Gardner, Ferdinando, Brown.

Nays: Sens. Lamontagne, S. Smith, Snell, Jacobson, Spanos, Nixon, English, Porter, Leonard, Morrisette, McCarthy, Provost, Marcotte, Koromilas, Downing, Tufts, Foley.

Result: 5 Yeas, 17 Nays.

Motion lost.

Sen. NIXON: Mr. President, I move that SB 250 be amended.

AMENDMENT

Proposed by Committee on Judiciary

Amend RSA 417:4 VIII (c) as inserted by section 1 of the bill by striking out the same and inserting in place thereof the following:

(c) Making any unreasonable distinction or discrimination between persons as to the policy, premiums, or rates charged for policies upon the lives or health of such persons, or in any other manner whatever; demanding or requiring by an insurer a greater premium from any person than is at that time required by such insurer from persons of the same age, sex, general condition of health and prospect of longevity; making, or requiring any rebate, diminution or discount upon the amount to be paid on such policy in case of death of such person insured; inserting in the policy any condition, making any stipulation whereby such person insured shall bind himself or his heirs, executors, administrators and assigns to accept any sum less than the full amount of value of such policy in case of a claim accruing thereon by reason of the death or disability of such person insured, other than such as are imposed on persons in similar cases. Any such stipulations or conditions so made or inserted shall be void.

Amend RSA 417:4 VIII (e) as inserted by section 1 of the bill by striking out the same and inserting in place thereof the following:

(e) Refusing to insure risks solely because of age (except in the case of life, accident or health insurance), place or area or residence, race, color, creed, national origin, ancestry, marital status, lawful occupation including the military service (except in the case of life, accident or health insurance), of anyone who is or seeks to become insured or solely because another insurer has refused to write a policy, or has cancelled or has refused to renew an existing policy in which that person was the named insured or solely because the insured does not insure collateral business with the insurer.

Amend RSA 417:4 XII as inserted by section 1 of the bill by striking out the same and inserting in place thereof the following:

XII. Collecting Proper Premium. Knowingly collecting as premium or charge for insurance any sum in excess of or less than the premium or charge applicable to such insurance and as specified in the policy, in accordance with the applicable classifications and rates as filed with and approved by the commissioner, except a premium finance charge as allowed by law; or, in cases where classifications, premiums, or rates are not required by this title to be so filed and approved, such premiums and charges shall not be in excess of or less than those specified in the policy and as fixed by the insurer. This provision shall not be deemed to prohibit the charging and collecting, by surplus line brokers of the amount of applicable state and federal taxes in addition to the premium required by the insurer. Nor shall it be deemed to prohibit the charging and collecting, by an insurer, of amounts actually to be expended for medical examination of an applicant for insurance or for reinstatement of an insurance policy.

Amend RSA 417:4 XVII as inserted by section 1 of the bill by striking out the same and inserting in place thereof the following:

XVII. Complaint Handling Procedures Applicable to Insurance Companies.

(a) Failing to maintain a procedural means within the company, headed by a responsible officer, to process and respond adequately to policyholders' complaints.

(b) Failing to record and assemble all records of policyholders' complaints in a central location to facilitate periodic review by insurance departments.

(c) Failing to record, maintain and produce, when requested by appropriate authority, a summary of all complaints received, whether or not they were deemed valid, the time it took to process the complaint, and the disposition thereof and failing to file an annual report thereof with the insurance department.

(d) Failing to provide within this state reasonable means whereby any person aggrieved by the application of an insurer's rating system, claims practices, sales practices or underwriting procedures may be heard, in person or by his authorized representative, upon his written request to review the manner in which such procedures were applied in connection with insurance afforded or tendered to him.

Amendment adopted.

Sen. LEONARD: Mr. President, it is too bad that we don't have time to digest all of the suggestions of Sen. Ferdinando, but I think that if this is passed and sent to the House, it might receive further consideration and sent to a study committee.

Ordered to third reading.

SUSPENSION OF RULES

Sen. SPANOS moved suspension of the rules to place SB 250 on Third Reading.

Adopted.

Third Reading and Final Passage

SB 250, to eliminate unfair insurance practices.

Sen. SPANOS moved reconsideration on SB 250.
Motion lost.

RECESS

INTRODUCTION OF SENATE BILL

First, second reading and referral

SB 319, relative to the operation of boats and houseboats on public waters. (Rules Committee For Leonard of Dist. 13; Brown of Dist. 19 — To Resources and Environmental Control.)

COMMITTEE REPORTS CONTINUED

SB 206

relative to investments by banks. Ought to pass. Sen. Morrissette for Banks, Insurance & Claims.

Sen. MORRISSETTE: Mr. President, I was very proud to put this bill in. I do have additional work to do on it and I hope the members will go along with the recommendation.

Adopted. Ordered to third reading.

SJR 6

directing the insurance commissioner to conduct a study of the motor vehicle insurance laws as they relate to senior citizens and servicemen. Inexpedient to legislate. Sen. Ferdinando for Banks, Insurance & Claims.

Sen. FERDINANDO: Mr. President, the Committee in its wisdom recommended this method of taking care of SJR 6. Resolution adopted.

SJR 22

in favor of Stephen W. Rollins. Ought to pass. Sen. Ferdinando for Banks, Insurance and Claims.

Sen. LEONARD: Mr. President, SJR 22 was introduced by Sen. Gardner for one of her constituents, Mr. Stephen Rollins who works for the Fish and Game Department and who had very bad luck health wise over the years. He has used up his sick leave and is still incapacitated. The hearing indicated that this man has good merit. This bill gives Mr. Rollins a leave of absence of 3 months beginning May 11, 1971 and ending August 10, 1971.

Adopted. Ordered to third reading.

SB 162

relative to interest and service charges on overdue accounts. Refer to legislative study committee. Sen. Poulsen for Banks, Insurance & Claims.

Sen. POULSEN: Mr. President, SB 162 was introduced to establish interest charges on accounts. It crosses a whole line of tradition and establishes a 60 day free period. It does so many things that the Committee voted to refer it to Legislative Study Committee.

Sen. JACOBSON: Mr. President, I move that the words, "ought to pass" be substituted for the Committee Report, "refer to Legislative Study Committee". I introduced this bill because of the growing abuse that is existing within retail outlets, professional people, banks (although they are generally regulated) with respect to interest charges, and with respect to such things as what are called "bookkeeping charges". To give you just one short example, if an individual got a bill for \$11 by a dentist and did not pay it within the 30 days, he gets a \$1 bookkeeping charge for the failure to pay within 30 days. This is greater than 100 percent interest. This is the way in which many of these retail firms and professional people are getting a good deal of extra money at the expense of the public. I believe that they should be regulated in the same way as municipalities are regulated with regards to overdue taxes. This bill sets up the same interest charge as is now on overdue tax accounts.

The argument against doing this is that a town spends money, however, what has really happened is that many of these businesses encourage people to buy the material and then turn around and charge them. The intention, of course, is to gain business so that whatever is the cost of keeping the accounts, they are making much more than that by selling that extra month for the use of charge accounts.

I think this is an abusive practice and I hope that the Senate will go along with "ought to pass."

Sen. FOLEY: Sen. Jacobson, does this include interest charged by finance companies?

Sen. JACOBSON: It does not include any interest charges to which the parties have contracted to. These are charges which they just lay on without the consent of the parties involved. It has nothing to do with contracted ones.

Sen. FERDINANDO: Mr. President, I support the Committee Report in concept. The Committee felt that the concept was very good but the way the bill reads, you could not charge interest unless the account was 60 days in arrears and most merchants have to pay the suppliers within 30 days. If they could not charge a service charge, they wouldn't have the money to pay the suppliers and they would have to go out and borrow the money. This is one of the reasons it was felt that this bill should go to Legislative Study Committee.

Sen. POULSEN: I rise in opposition to the pending motion. The charge which is ordinarily made is not excessive. It does not make money for the companies, in fact, the companies testified that they lose money on these accounts. The bill has a certain merit in that this should be regulated, but we don't feel that this bill does that and we felt that it should go to the Legislative Study Committee.

Sen. JACOBSON: Is there anything that prohibits the merchants and others from demanding cash?

Sen. POULSEN: Nothing at all.

Sen. JACOBSON: Why is it normally a practice for merchants to want to have a credit relationship?

Sen. POULSEN: Most people do not carry enough cash.

This makes a good economic system providing that everyone pays their bills.

Sen. JACOBSON: Why is it that the gasoline companies, which do have a credit system, do not establish their relationship for 55 days?

Sen. POULSEN: I have no idea.

Sen. LEONARD: Mr. President, most people who have charge accounts sign up for the account and don't read the small print which says that they will be paying $1\frac{1}{2}$ percent per month. At least they sign this agreement. I think this is a good idea of Sen. Jacobson's and I am for the bill. I think that businesses make a lot of money through charging. A lot of people buy things which they really don't intend to buy when all they have to do is sign. All this bill does is prohibit the charge of interest when the person who buys doesn't know he is going to be charged this interest. This will not affect those accounts where a person fills out an application which stipulates that interest will be charged.

Sen. POULSEN: Sen. Leonard, don't you believe that the point of people buying things is that the seller expects he is going to be paid and that the interest is only added to cover him for his overhead?

Sen. LEONARD: I think this is more of a money-making proposition. I've had charge accounts for all my life and it is only in the last few years where I have had to pay interest on the balance. Now they charge $1\frac{1}{2}$ percent a month which I refuse to pay and always deduct it when I do pay.

Sen. MORRISSETTE: Mr. President, I rise in favor of the Committee Report. The intention of this bill is very good but it will not work. I know when I was in business that we never collected the interest. The large companies have the purchasers sign agreements for charging but the smaller companies do not. This bill will not affect the large companies. This will hurt all the small people who have to charge and don't have the cash. I hope my colleagues will go along with the recommendation of the Committee.

SEN. S. SMITH IN THE CHAIR

Question on substituting "ought to pass" for Committee Report, "refer to Legislative Study Committee."

Division taken: Result: 10 Yeas, 11 Nays.

Motion lost.

Question on Committee Report.

Adopted.

PRESIDENT IN THE CHAIR

SB 212

to reduce motor vehicle repair costs and insurance rates. Refer to Traffic Safety Commission. Sen. Leonard for Banks, Insurance & Claims.

Sen. LEONARD: Mr. President, SB 212 pertains to five mile an hour bumpers. It specifies that bumpers must be of a certain height and strength. There was testimony at the hearing that it didn't conform with the federal law. The bill does not take effect for about 5 years so the Committee decided to send it to the Commission for further study to be considered in the next session.

Resolution adopted.

SB 274

to provide the subscribers of hospital and medical service plans and the public more voice in the administration of such plans. Inexpedient to legislate. Sen. Poulsen for Banks, Insurance & Claims.

Sen. FERDINANDO: Mr. President, the Committee recommends that this bill be made inexpedient to legislate based on the testimony at the hearing.

Sen. POULSEN: Mr. President, on SB 274, there was an attempt to have the board of the Blue Cross be so constituted that it contained a large portion of non-subscribers, non-medical people and the Committee felt that this type of group could not run this type of organization.

Resolution adopted.

PARLIAMENTARY INQUIRY

Sen. McCARTHY: I would like to inquire as to the status of SB 273 which was referred to the Banks, Insurance & Claims Committee and on which a public hearing was held early this week.

CHAIR: We have not as yet received a Committee Report on that bill. To the best of my knowledge, it is still in the possession of the Committee.

Sen. McCARTHY: Could you advise me of the proper parliamentary procedure to have this brought in?

CHAIR: You could request that the bill be vacated from the Committee, which would require a two-thirds vote.

HCR 12

Relating to a study of election laws. Ought to pass with amendment. Sen. Jacobson for Executive Departments, Municipal & County Governments.

AMENDMENT

Amend the resolution by striking out the fifth paragraph and inserting in place thereof the following:

That the committee shall report to the 1971 session of the general court on the first day of the first special session of such general court, if one is called, any recommendations for changes in the election laws which it proposes be enacted by said special session primarily because they have particular reference to or effect on biennial or other statewide elections.

Sen. JACOBSON: Mr. President, this HCR 12 establishes a commission to study the election laws in New Hampshire. The original bill had a report date of May 1 but we did not get the bill from the House until after that date so we amended it to read that "if the 1971 General Court is in session at some time between now and the end, said report shall be presented on the election laws."

Amendment adopted. Ordered to third reading.

SB 78

relative to inventory of certain public properties and public utilities and notice of abandonment of service and making an appropriation therefor. Ought to pass with amendment. Sen. Leonard for Executive Departments, Municipal and County Governments.

AMENDMENT

Amend the bill by striking out section 3 and inserting in place thereof the following:

3 Study by Director of Division of Parks. The director of the division of parks of the department of resources and economic development is hereby directed to study and investigate the feasibility of enacting the provisions of an act entitled 'An Act providing that certain abandoned railroad rights of way be retained for recreational use and a study be made to develop plans for a feasible system of trails and providing an appropriation therefor.' which was proposed to the 1971 session of the general court as senate bill number 110; he shall include in his study a determination of the feasibility of the use of such trails by trail bikes. He is directed to report his findings and recommendations, including drafts of any suggested changes to the proposed legislation, to the general court on or before December 15, 1972.

4 Effective Date. This act shall take effect July 1, 1971.

Sen. JACOBSON: Mr. President, SB 78, introduced by Sen. Tufts, provides for an inventory to be made on all properties of the public utilities and public agencies. To this was attached a portion of SB 110 which is the amendment calling for a study of the use of these trails which go along easements for such things as horse-drawn pleasure vehicles, bicycling and hiking. The Senate amendment added trail bikes. This bill, unfortunately, has an appropriation of \$6,000.

Amendment adopted. Referred to Finance Committee.

SB 148

to require voting on each office. Majority: Inexpedient to legislate. Sen. S. Smith for Executive Departments, Municipal and County Governments. Minority: Ought to pass. Sen. Jacobson for Executive Departments, Municipal and County Governments.

Sen. S. SMITH: Mr. President, I hope the Senate will go along with the majority of the Committee. What SB 148 does is to take from the ballot in the general elections the circle at the top of the ballot which can be used to mark a straight ballot and a straight ticket. The reason why I opposed this are three in number. Many people whom I have talked to, Republican and Democrat, have indicated that they are not favorable to this piece of legislation. There are, however, Democrats and Republicans who are in favor of the legislation. The other two reasons, basically, are as follows. I think that the tendency within our

legislative halls has been to pass legislation which, in effect, would weaken party structure and for this reason, I would be opposed to it and I think political parties do have a place in our society. Thirdly, I am opposed for the very practical reason that there are many people who do utilize and who like to vote a straight ticket rather than going down the whole ballot. The other aspect of it is if you are counting ballots on election night and can put aside a large quantity of them already counted as straight tickets, it is much easier in the counting of ballots. People do, at the present time, have the free choice of whether they want to vote a straight ticket or down the line. I feel that this is not a good piece of legislation.

Sen. JACOBSON: Mr. President, I move that the report of the Minority, "ought to pass" be substituted for that of the Majority, "inexpedient to legislate." In our Committee, we split on this 4 to 3. I think the argument of those who are opposed to SB 143 is that it, in the end, will make for more responsible voting on the part of the voters in which they will be required to vote for each office. Furthermore, I think we all recognize, whether we are Republicans or Democrats, that there are good people on either side and that every party falls prey to the fact of having someone who is surely less qualified than the person on the other side. This would give opportunity to those who are eminently qualified to have a chance to stand in the office with the elimination of the straight party vote.

I might also say that two of our distinguished members of Congress, Congressman Wyman and Congressman Cleveland, are in favor of this legislation. I hope the members of the Senate will accept the Minority Report.

Sen. SPANOS: Mr. President, I rise in support of the Minority Report, "ought to pass." I sponsored a similar bill but Sen. Nixon's was printed before mine and I agreed with his principles.

Sen. NIXON: Mr. President, SB 148 does *not* abolish straight ticket voting. All it does is encourage *intelligent* straight ticket voting in the sense that, if you want to vote a straight ticket, you merely vote for each of the candidates on that side of the ballot so you have to do some selecting. Motivational studies done by the American Political Science Review show that those who select the party emblem and vote are motivated principally

by two drives — a strict party identification without regard for the caliber of the individual candidates and the principle of least effort — laziness. I am for strong parties, but I think strong parties are essentially founded on respect for the whole process. I think respect for the process is diminished when people merely vote an emblem rather than for the individual candidates. This is the law now in a majority of our states. The trend is away from the automatic party designation. I hope you will support this bill.

Sen. S. SMITH. I can understand your thinking on this, but are you aware of the problem in primary elections where there is no circle and the number of candidates is long — the ones at the bottom may not even get a vote because of voter fatigue?

Sen. NIXON: I was not aware of that particular aspect of the election process, having been a moderator in New Boston for six years. I would submit that if this does happen, it is not due to voter fatigue, but because those at the bottom of the list have not gone out to make themselves known enough to get the votes.

Sen. SNELL: Mr. President, I rise in support of the Minority Report and hopeful that this will give the opportunity for better elections.

Sen. KOROMILAS: Mr. President, I rise in opposition to the pending motion. When a person puts his cross at the top of the ticket, I think he knows he wants to vote for the entire ticket. This bill deprives that person from voting in one fell swoop.

Sen. LAMONTAGNE: Mr. President, I move the previous question.

Adopted.

Question on substituting "ought to pass" for "inexpedient to legislate."

Requested by Sen. Lamontagne. Result: 14 Yeas, 9 Nays.
Motion carried. Ordered to third reading.

SB 254

prohibiting candidates for office, other than election officials, from being present within the rail of a polling place.

Ought to pass with amendment. Sen. Jacobson for Executive Departments, Municipal and County Governments.

AMENDMENT

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Assistant Moderator. Amend RSA 95:75 (supp) as inserted by 1963, 241:1 by inserting at the end thereof the words (; provided, however, that if the moderator is unable to perform his duties because he would be in violation of the provisions of RSA 59:38, the assistant moderator shall exercise all the powers and duties of the moderator, and he shall not be subject to the control of the moderator.) so that said section as amended shall read as follows: 59:75 Assistant Election Officials. In any town which has voted to adopt an official ballot for the election of its town officers, the selectmen, upon request of the moderator, may appoint an assistant town clerk and such other election officials, if any, as are deemed necessary. Said assistant town clerk and other election officials shall perform such duties and have such powers as the moderator may delegate to them, provided that the power of receiving ballots and making any declaration of the vote cast shall not be delegated to said assistant election officials. The moderator is authorized to appoint an assistant moderator, who shall take the oath of office in the same manner as the moderator and shall have all the powers and duties which the moderator has, subject to the control of the moderator; provided, however, that if the moderator is unable to perform his duties because he would be in violation of the provisions of RSA 59:38, the assistant moderator shall exercise all the powers and duties of the moderator, and he shall not be subject to the control of the moderator.

3 Effective Date. This act shall take effect sixty days after its passage.

Sen. JACOBSON: Mr. President, SB 254 was originally introduced by Rep. Spirou. The bill did not fare in the House so a group of senators got together to introduce it in this body. The Committee considered this bill and its merits and found it favorable. There was one slight problem relating to the question of the town moderator. In the towns in this state, the people elect the moderator, not in terms of what he does in his

election officiating but in terms of what kind of a moderator he is — his understanding of parliamentary procedure. That individual would have to choose, in my case and in Sen. Nixon's, between being moderator and state senator. The amendment allows an individual to be moderator in terms of the town meeting and not serve as an election official at any time. I urge the Senate to adopt the bill as amended.

Amendment adopted. Ordered to third reading.

PARLIAMENTARY INQUIRY

Sen. NIXON: How does one go about showing it was a unanimous vote in favor other than a Roll Call?

CHAIR: It has been ordered to third reading by voice vote.

SUSPENSION OF THE RULES

Sen. SPANOS moved suspension of the rules to place SB 254 on third reading and final passage.

Adopted.

Third Reading and Final Passage

SB 254

prohibiting candidates for office, other than election officials, from being present within the rail of a polling place.

ROLL CALL

Requested by Sen. Spanos. Seconded by Sen. Leonard.

Yeas: Sens. Lamontagne, Poulsen, S. Smith, Snell, Townsend, Gardner, Jacobson, Spanos, Nixon, Porter, Leonard, Ferdinando, R. Smith, Morrissette, McCarthy, Provost, Brown, Koromilas, Downing, Tufts, Foley.

Nays: Sen. Marcotte.

Result: 21 Yeas; 1 Nay.

Adopted.

COMMITTEE REPORTS CONTINUED

SB 265

providing for the salary of the clerk of the Portsmouth District Court. Inexpedient to legislate. Sen. Jacobson for Executive Departments, Municipal and County Governments.

Sen. JACOBSON: Mr. President, the sponsor of this bill asked that the bill be withdrawn and that is the reason for it being inexpedient.

Resolution adopted.

SB 277

relative to disqualification of certain officials in the City of Manchester for employment by the city. Ought to pass. Sen. Ferdinando for Executive Departments, Municipal and County Governments.

Sen. FERDINANDO: Mr. President, SB 277 was introduced by Sen. McCarthy. This prohibits elected officials from taking permanent city positions. The Committee felt this bill was a good one and should be passed.

Adopted. Ordered to third reading.

SB 263

establishing a department of environmental control and merging therein the department of fish and game, the department of agriculture, the divisions of parks and resources development of the department of resources and economic development, the water supply and pollution control commission, the water resources board and the office of state planning. Refer to interim Legislative Study Committee. Sen. Jacobson for Executive Departments, Municipal and County Governments.

Sen. JACOBSON: Mr. President, SB 263, SB 268, SB 270, SB 271 and SB 272 are all related to the same subject. These bills have, as their thrust and intention, a complete reorganization of several departments of government in our state. As you can all understand, these bills came in very late and require a tremendous amount of study. However, we felt that these bills, in many instances, had merit and therefor, we believe that in the Interim Legislative Study Committee or a standing committee of the Executive Departments, Municipal and County Governments if one be established, these bills should be given careful consideration as study as to their merit and impact on the future of our state.

Sen. MORRISETTE: Mr. President, I hope that this Legislative Study Committee will give these bills serious study. Many months of study went into this subject and deserve favorable consideration.

Resolution adopted.

SB 97

relative to conflict of interest for certain public officials. Refer to Joint Committee on Judiciary. Sen. Jacobson for Executive Departments, Municipal and County Governments.

Sen. JACOBSON: Mr. President, SB 97 refers to the problem of the conflict of interest in regards to public officials. The bill relates to all levels of financial possibility within the state such as the buying and purchasing of and, the renting and leasing of buildings and other related subjects. The question is a very serious one and needs investigation. The Committee felt that this is the kind of bill which the Judiciary Committee should study. Later on, we have two resolutions which establishes the Joint Committee Judiciary to study other subjects.

Sen. MORRISSETTE: Isn't it true that your committee is split right down the middle regarding the merits of this bill?

Sen. JACOBSON: We were split on having an amended version. There was generally a unanimous view that the bill would have to be amended but then questions arose with respect to just what the thrust of each of these were. It was felt that it would be better to give this whole question serious study since it is essentially a judicial problem.

Sen. MORRISSETTE: I move that the words "ought to pass" be substituted for the Committee Report, "Refer to Joint Committee on Judiciary". I make this motion reluctantly but I feel that we have a critical problem and we must act now rather than two years from now. At the present time, we have no law in the books regarding conflict of interests and we need this law. I introduced this bill for the purpose of insuring that no state official or members of the General Court shall profit as the result of the office held by such an official or member of the Legislature. I hope the Senate will go along with my motion of ought to pass.

Question on substituting "ought to pass" for the Committee Report, "Refer to Joint Committee on Judiciary."

ROLL CALL

Roll Call requested by Sen. Morrisette, seconded by Sen. Ferdinando.

Yeas: Sens. Leonard, Ferdinando, Morrisette, Downing.

Nays: Sens. Lamontagne, Poulsen, S. Smith, Snell, Townsend, Gardner, Jacobson, Spanos, Nixon, English, Porter, Provost, Brown, Marcotte, Tufts, Foley.

Result: 4 Yeas; 16 Nays.

Motion lost.

Report of Committee adopted.

SB 120

to require public hearings prior to the vote on bond or note issues of certain municipalities and providing procedures for bonds in excess of one hundred thousand dollars. Ought to pass with amendment. Sen. Jacobson for Executive Departments, Municipal and County Governments.

AMENDMENT

Amend RSA 33:8-a by striking out the same and inserting in place thereof the following:

33:8-a Hearing to be Held. There shall be at least one public hearing concerning any proposed municipal bond or note issue in excess of \$100,000 held before the governing board of any municipality. Said hearing shall be held at least fifteen days prior to the meeting at which the bond or note issue is to be voted upon. Notice of the time, place, and subject of such hearing shall be published in a newspaper of general circulation in the municipality at least seven days before it is held. After the hearing the board of selectmen or school board shall determine the form of such articles to be submitted to the voters and such articles shall be acted upon prior to other business except the election of officers or as otherwise determined by the voters at the meeting. The provisions of this section shall not apply to cities.

Sen. JACOBSON: Mr. President, originally SB 120 provided for two public hearings provided that any bond issue in excess of \$100,000 would be posted on the warrant of a school district or town meeting in those articles immediately following the election of officers. It then provided for an extended period of voting after the discussion at the school district or town meeting had been completed. However, we ran again in that lovely enigma — bond council. In fact, I have come to the conclusion that they are the untouchables. I hope that some-

time we may investigate them. So, under their tremendous power, this bill has been amended so that it is a very simple bill. It provides for one public hearing. It was pointed out that the school board and many municipalities have budget hearings so that takes care of one meeting. The board of selectmen or the school board must put this on the warrant. This is a very limited step in order to gain better participation of the people in issues that profoundly affect them.

Sen. DOWNING: Would this bill require the bond issue to be put on a ballot in a referendum?

Sen. JACOBSON: No, it would not. At the present time, no bond issues are in a referendum in municipalities.

Amendment adopted. Ordered to third reading.

PARLIAMENTARY INQUIRY

Sen. ENGLISH: I would like to be recorded as voting in favor of SB 254.

RECESS

HOUSE CONCURRENCE TO SENATE AMENDMENTS

HB 804, legalizing the proceedings establishing the Shaker regional school district and amending the articles of agreement of said district.

COMMITTEE REPORTS CONTINUED

SB 189

to amend the New Hampshire higher educational and health facilities law. Inexpedient to legislate. Sen. Jacobson for Executive Departments, Municipal and County Governments.

Sen. JACOBSON: Mr. President, I move that the words, "ought to pass with amendment" be substituted to the Committee Report, "inexpedient to legislate." When the Committee met in Executive Session first, it was discovered that the subject of SB 189 had been deleted from HB 578. There had been a Committee of Conference Report and that report had been accepted. However, I learned today that the reason for the dele-

tion was that the section of the bill that was stricken was intentional in order that the subject of SB 189 could be debated as a separate issue. SB 189 was introduced by Sen. Ferdinando on behalf of the Industrial Development Authority and others who were interested in the bonding of higher educational and medical facilities.

The bill, as originally introduced, did avoid the investment clause and the Banking Commission object to this because it did allow these various agencies which bond to invest in low security type bonds. The persons who were interested in this bill, particularly saving banks, got together with the Banking Commission and came up with an amendment. What this amendment does is to allow the New Hampshire Higher Education and Health Facilities Authority to establish bonds which have a quality rating of AAA, AA, and A as recognized by national bonding agencies. The amendment is acceptable to the Committee and it will facilitate the opportunity for savings banks and others who are interested in buying bonds to have these bonds that are issued by higher education institutions and medical facilities.

Question on substituting "ought to pass with amendment" for the Committee Report, "inexpedient to legislate."

Adopted.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

establishing obligations of the New Hampshire Higher Educational and Health Facilities Authority as "legal investments".

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 New Hampshire Higher Educational and Health Facilities Authority Obligations. Amend RSA 387:16 by inserting after paragraph VI the following new paragraph: VII. OBLIGATIONS OF THE NEW HAMPSHIRE HIGHER EDUCATIONAL AND HEALTH FACILITIES AUTHORITY. Bonds, notes or other obligations of the New Hampshire Higher

Educational and Health Facilities Authority which have an investment quality rating by one of the nationally recognized bond-rating agencies. The term "investment quality rating" as used in this subsection shall mean any one of the three highest investment categories of the particular bond-rating agency.

Amendment adopted. Ordered to third reading.

SB 213

relative to sessions for correction of or additions to the checklists and for alterations of or additions to party registration. Refer to Committee to Study Election Laws. Sen. Jacobson for Executive Departments, Municipal and County Governments.

Sen. JACOBSON: Mr. President, SB 213, introduced by Sen. Spanos, does principally two things. It requires that the supervisors of the checklists be opened at least once a month and then it has the effect of creating an open type primary. This is a very substantial change in the way we conduct our primary elections at the present time. Because we have this special commission to study our election laws, it was the Committee's opinion that this whole question of whether an open primary should be part of our New Hampshire laws, should be studied and they can come up with a recommendation.

Sen. SPANOS: Is this committee in existence?

Sen. JACOBSON: All it needs is a concurrence of the House upon an amendment which Rep. Raiche has.

Resolution adopted.

RECONSIDERATION

Sen. LEONARD: Mr. President, I move that the Senate reconsider its actions whereby it ordered SJR 22 to a third reading. This is the resolution for the benefit of Steven Rollins which we recently voted to order to a third reading. The spelling of the name was incorrect so we have an amendment to correct that error.

Adopted. Reconsideration prevails.

SECOND READING OF SJR 22

Sen. LEONARD: Mr. President, I move the following amendment:

AMENDMENT

Amend the caption of the Resolution by striking out the same and inserting in place thereof the following:

in favor of Steven W. Rollins

Amend the Resolution by striking out in the first line of the Whereas paragraph the word "Stephen" and inserting in place thereof the word Steven.

Further amend the Resolution by striking out in line 10 the word "Stephen" and inserting in place thereof the word Steven.

Amendment adopted. Ordered to third reading.

COMMITTEE REPORTS CONTINUED

SB 224

relative to the procedure for changing zoning regulations. Inexpedient to legislate. Sen. Jacobson for Executive Departments, Municipal and County Governments.

Sen. JACOBSON: Mr. President, SB 224 has to do with the changes in the zoning regulations whereby at the present time, it requires three-fourths of all persons voting on a zoning change whenever 20 percent of those who are affected by the zoning change lodge a protest. Sen. English conducted an investigation on this and found that there really was no need for this legislation and therefore the Committee recommends it be made inexpedient to legislate.

Resolution adopted.

SB 268

transferring the division of promotion to the Office of the Governor. Refer to Interim Legislative Study Committee. Sen. Jacobson for Executive Departments, Municipal and County Governments.

Sen. JACOBSON: Mr. President, what I said on SB 263 pertains to SB 268.

Resolution adopted.

SB 269

creating an industrial development authority. Refer to Legislative Study Committee. Sen. Jacobson for Executive Departments, Municipal and County Governments.

Sen. JACOBSON: Mr. President, SB 269 has, as its object, a reform of the present Industrial Development Authority. Again, this is a bill of great magnitude and coming in at this late date, while it may have some merit, it is felt that this should be given to the Interim Legislative Study Committee in order that they might study it and come up with a recommendation that is meaningful.

Resolution adopted.

SB 270

transferring the division of graphic arts to the Office of the Governor. Refer to Interim Legislative Study Committee. Sen. Jacobson for Executive Departments, Municipal and County Governments.

Sen. JACOBSON: Mr. President, what I said on SB 263 pertains also to SB 270.

Resolution adopted.

SB 271

transferring the service of community recreation to the Office of the Governor. Refer to Interim Legislative Study Committee. Sen. Jacobson for Executive Departments, Municipal and County Governments.

Sen. JACOBSON: Mr. President, what I said on SB 263 pertains with respect to SB 271.

Resolution adopted.

SB 272

transferring the office of state geologist to the Office of Governor. Refer to Interim Legislative Study Committee. Sen. Jacobson for Executive Departments, Municipal and County Governments.

Sen. JACOBSON: Mr. President, what I said on SB 263 pertains with respect to SB 272.

Resolution adopted.

SB 285

authorizing the Human Rights Commission to accept public and private grants. Ought to pass. Sen. Jacobson for Executive Departments, Municipal and County Governments.

Resolution adopted.

Sen. JACOBSON: Mr. President, what SB 285 does is to provide the authority whereby the Human Rights Commission may accept either public or private grants and utilize them in the works of the Commission. It was thought that this is a reasonable request and that it would be helpful to their work, therefor, the Committee recommends its passage.

Adopted. Ordered to third reading.

SB 290

to permit the registration of voters as independents and to provide for the voting of persons so registered in primary elections. Inexpedient to legislate. Sen. Jacobson for Executive Departments, Municipal and County Governments.

Sen. JACOBSON: Mr. President, the sponsor of SB 290 came before the Committee to speak to the question and we discovered that his interest was in providing that independents may go in and vote and go back to his independent status. We already passed HB 199 and therefore there was no further need for this bill as it is already covered by other legislation.

Resolution adopted.

SB 307

establishing a division of real and personal property appraisals within the tax commission. Ought to pass with amendment. Sen. Jacobson for Executive Departments, Municipal and County Governments.

AMENDMENT

Amend the bill by striking out Chapter 77-C:2 of the bill and inserting in place thereof the following:

77-C:2 Director; Duties. A director of the real and personal property division shall be appointed under the personnel law by the tax commission. He shall assist municipalities in appraisals and valuations as provided in RSA 71:29. He shall administer the provisions of RSA 71:30; assess the taxes in the unincorporated places, pursuant to RSA 81, assess the taxes for school purposes in the unorganized towns; appraise state owned forest and recreation land pursuant to RSA 219 and RSA 216-A; administer the provisions of the forest conservation act as it applies to timber cut in unincorporated places, assess head and poll taxes in the unincorporated places; and in all such assessments, commit a warrant to the appropriate division of the tax

commission for collection. Biennially the director shall, by surveys determine the proper equalization of locally taxable properties in cities and towns and places, and report his findings to the commission. He shall also make periodic appraisals pursuant to RSA 72:11 and 11-a, and submit his findings to the commission. He shall prepare a standard appraisal manual for the use of assessing officials, and hold meetings throughout the state with such officials to instruct them in appraising property, and the use of data processing in preparing tax rolls.

Further amend the bill by striking out section 3 and inserting in place thereof the following sections:

3 Costs. All costs for salaries and expenses for the operation of this division shall be a charge against the appropriation for the tax commission office of administration.

4 Effective Date. This act shall take effect July 1, 1971.

Sen. JACOBSON: SB 307 relates to the whole question of the authority and supervision of assessment of real estate property and personal property. At the present time, it is under the direct control of the Tax Commission. There has been a number of complaints with regards to this matter in which people feel that the Tax Commission is both judge and jury on the matters. The Tax Commission has proposed this bill which was introduced by Sen. S. Smith to establish a Division of Real and Personal Property Appraisals. There will be appointed a Director and he will have his men in the field and there will be a direct kind of responsibility which is under this Director.

The amendment changes one word in the text — it says “violations” and it should read, “valuations.” It also says, “only in towns and places.” The amendment is “cities, towns and places” so these are only bookkeeping amendments. Then there is a further amendment which states that “the costs for all salaries and the expenses for the operation of this shall be a charge against the appropriation of the Tax Commission.” The Committee recommends its passage.

Amendment adopted. Referred to Finance.

SB 170

relative to disposal by auction sale of certain surplus municipal property. Ought to pass with amendment. Sen. Jacobson for Executive Departments, Municipal and County Governments.

AMENDMENT

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Disposal. Amend RSA 47 by inserting after section 5 the following new section: 47:5-a Disposal of Public Property. All property, land, buildings, machinery, goods and supplies or materials which shall be considered surplus to the needs of a municipality shall be disposed of through open advertised public bidding with a fair and just minimum value placed upon the items. This section shall not apply if the individual items or combination of items to be disposed of have a value of less than five hundred dollars. No item shall be given away free or scrapped unless publicly advertised at least thirty days in advance first being offered to nonprofit or charity organizations or if desired by more than one private individual, given to the one offering the highest bid.

Sen. JACOBSON: Mr. President, SB 170, introduced by Sen. Morrissette, has to do with a problem of public officials selling public property without any form of competitive bidding. This bill establishes a procedure of competitive bidding and also to establish a committee which would fluctuate between three and ten members depending upon the value of the particular item. It said that there should be competitive bidding on all items in excess value of \$100. The Committee looked over this bill and felt that it did have merit with respect to the competitive bidding aspect. It felt that the committee structure was a very complex and difficult kind of function to administer and that the \$100 was too low. We amended it to raise the value to \$500 and struck from the bill that special committee arrangement which would handle the bidding.

Amendment adopted. Ordered to third reading.

SB 305

establishing a miscellaneous tax division within the tax commission. Ought to pass with amendment. Sen. Jacobson for Executive Departments, Municipal and County Governments.

AMENDMENT

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 New Chapter. Amend RSA by inserting after chapter 77-B the following new chapter:

Chapter 77-C
Miscellaneous Tax Division

77-C:1 Division Established. There shall be a miscellaneous tax division within the tax commission, under the executive management of a director. All the powers, duties, functions and administration heretofore residing in the divisions of tobacco products and meals and rooms are transferred to the miscellaneous tax division. All duties, powers and responsibilities heretofore residing in the directors of these two divisions, and wherever they are referred to by statute, are transferred to the director of the miscellaneous tax division.

77-C:2 Director; Duties. A director of the miscellaneous tax division, shall be appointed under the personnel law, by the tax commission. He shall, in addition to performing the duties and functions prescribed in RSA 77-C:1, be responsible for, and have all the powers provided to the tax commission for the collection of taxes against persons or property in unincorporated places or unorganized towns pursuant to chapter 31. He shall have the power and duty to collect taxes upon the transfer of real property pursuant to RSA 78-B, taxes assessed against railroads and public utilities pursuant to RSA 82, the franchise tax, pursuant to RSA 83-B and the tax on banks pursuant to RSA 84, and such other duties as the tax commission may assign to him.

77-C:3 Deputy Director. There shall be a deputy to the director who shall be appointed in the same manner as the director. He shall perform such duties as the director may assign to him. In the absence of the director, he shall perform the duties of the director, and shall during the director's absence, have all the director's powers and duties.

2 Transfer of Personnel, Property and Records. All personnel, property and records of the divisions of tobacco products and meals and rooms are hereby transferred to the miscellaneous tax division.

3 Reallocation of Positions. The tax commission may reallocate the positions of any employees or any directors of the two divisions herein transferred, or employees or equipment

of the interest and dividends tax division as the commission may determine, to obtain the most efficient operation of the miscellaneous tax division. No employee transferred hereby, shall be reduced in grade, nor shall the transfer eliminate any then existing grade within the classified service, unless such position shall then be vacant, or if filled, its incumbent has been transferred to an equivalent or higher paid position of like tenure. No permanent classified employee within the tax commission, transferred hereunder, shall be required to take an examination to retain his grade.

4 Transfer of Funds. All moneys appropriated to the divisions of meals and rooms, tobacco products and for salaries of personnel of the interest and dividends tax division who are transferred to the miscellaneous tax division are hereby transferred to the miscellaneous tax division.

5 Filing of Certificate of Decision. Amend RSA 82:16 by striking out said section and inserting in place thereof the following: 82:16 Certificate of Decision. The tax commission shall file with the director of the miscellaneous tax division, certificates of their decisions.

6 Bond. The director and deputy director shall each furnish a bond in an amount set under RSA 93.

7 Effective Date. This act shall take effect July 1, 1971.

Sen. JACOBSON: Mr. President, SB 305 is the second bill introduced by Sen. Smith on behalf of the Tax Commission. This establishes a miscellaneous tax division in our Tax Commission structure. Originally, the bill called for the joining together of the tobacco products tax, the meals and room tax and the interest and dividends tax division into one division. However, after consideration, the Tax Commission felt that the interest and dividends tax division should still remain a separate division anticipating at some future date when we may have some kind of income tax. They asked that the bill be amended. The net result of this is to reduce one director, about 5 cars and some personnel in the Tax Commission. Some of those will be taken up by SB 307 if that becomes law, however, the net result is some savings. No employee of the Tax Commission will be fired or removed from the job. They will be dried up under natural attrition.

Amendment adopted. Referred to Finance Committee.

FURTHER HOUSE MESSAGES

On motion of Sen. Poulsen, the Senate voted to accede to House request for Committee of Conference on:

HB 705, relative to the date of expiration of legislative number plates.

The Speaker appointed as members of said Committee on the part of the House, Reps. Hamel, Michels and Woods.

The President appointed as conferees on the part of the Senate, Sens. Poulsen, Bradshaw and Lamontagne.

SENATE CONCURRENCE IN
HOUSE ADOPTION OF ENROLLED BILLS
AMENDMENT

HB 661, revising the application of the implied consent law.

AMENDMENT

Amend section 1 of said bill by inserting at the end thereof the following:

Results of a test of the breath shall be furnished immediately in writing to the person tested by the law enforcement officer conducting the test.

Sen. NIXON moved concurrence.

Adopted.

ENROLLED BILLS REPORT

HB 126, extending the good samaritan law to certain rescue and ambulance squads.

HB 199, to permit a legal voter who is registered as a member of a party to re-register as not being a member of any party.

HB 545, permitting the conduct of beano games on Sunday and increasing the fee for beano licenses.

HB 666, permitting eighteen year olds to entertain in lounges and dining rooms.

HB 806, providing for permits to keep moose taken in other states and Canada and providing for the protection of Canadian lynx.

SB 131, abolishing arrest upon civil process.

SB 151, relative to reimbursement for damages caused by vandalism.

SB 159, abolishing the state rifle range study commission.

SB 164, relative to license for sale of real estate where there are unknown heirs, or heirs under disability, or heirs whose whereabouts are unknown.

SB 171, relative to Sunday dancing in hotels and certain restaurants.

SB 222, clarifying the law concerning the merger of insurance companies.

Sen. Ferdinando
For the Committee

RECESS

ENROLLED BILLS REPORT

HB 804, legalizing the proceedings establishing the Shaker regional school district and amending the articles of agreement of said district.

Sen. Ferdinando
For the Committee

COMMITTEE REPORTS CONTINUED

SJR 29

relative to reimbursement to the Wentworth School District for fire damage to the Wentworth Elementary School. Ought to pass. Sen. R. Smith for Finance.

Sen. TOWNSEND: Mr. President, SJR 29 was entered as a result of a fire which took place in January in the Town of Wentworth which burned the entire school. This calls for an expendi-

ture of \$15,000 to come from the building aid fund through the Department of Education. This will be in addition to the 30 percent participation which the building fund normally covers. This is a fund which the Department has that they can allocate in case of an emergency. I urge your support.

Adopted. Ordered to third reading.

SB 100

authorizing the State of New Hampshire to acquire from the town of Woodstock bridge No. 205-078. Ought to pass with amendment. Sen. R. Smith for Finance.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

An Act
relative to repair of damage to bridges in Thornton and
Woodstock.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Repair of Bridges. The department of public works and highways is hereby authorized to reconstruct or replace, as determined by the commissioner of public works and highways to be appropriate, the following bridges damaged under unusual circumstances: In the town of Thornton, on the Cross Road, bridge No. 172/076 over the Pemigewasset river; in the town of Woodstock, bridge No. 197/088 over the Pemigewasset river, also bridge No. 205/078 on N.H. route 175 over Eastman brook. The town's share of costs incurred pursuant to this section, after deducting the value of one-eighth of one percent of its assessed valuation plus the value of one year's town road aid funds as required in RSA 241:13, shall be one-eighth of the remaining cost of the bridge reconstruction or replacement.

2 Appropriation. There is hereby appropriated the sum of one million dollars for the purposes of this act. Said appropriation shall be a charge against the highway fund.

3 Bond Issue Authorized. To provide funds for the purpose of this act the state treasurer is hereby authorized to bor-

row upon the credit of the state in a sum not exceeding one million dollars and for that purpose may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A. The interest and principal due on bonds or notes issued under this section shall be a charge on the highway fund.

4 Effective Date. This act shall take effect sixty days after its passage.

Sen. S. SMITH: Mr. President, SB 100 has been amended. This bill puts under emergency funds the construction and reconstruction of three bridges; two in the Town of Woodstock and one in the Town of Thornton. It also includes a \$1 million bond issue out of highway funds. This is being brought in at this time because of the situation which has developed in recent months. Two of these bridges connect U.S. 3 and 175. The third one is over a lake in Rt. 175. A year ago on the bridge in 175, a truck which was under contract to the state crossed this bridge and went through the bottom. This Spring, a bridge in Woodstock was burned and completely destroyed. The condition of these bridges hampers fire control, police protection and has increased costs for bussing in the school district because of the lack of other accesses. The ability to pay in this area is limited so I hope the Senate will accept the Committee Report.

Amendment adopted. Ordered to third reading.

SB 234

providing for consumer product warranty protection. Ought to pass with amendment. Sen. Koromilas for Judiciary.

AMENDMENT

Amend RSA 358-B:2 I as inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

I. Every sale of a consumer product to a retail buyer by a retail seller in this state shall carry an implied warranty of merchantability from the manufacturer of the product.

Amend RSA 358-B:2 V as inserted by section 1 of the bill by striking out the same and inserting in place thereof the following:

V. Every manufacturer, distributor or retail seller making an express warranty relating to performance shall cause the following information to be provided to the first buyer prior to the time of purchase by tag attached to the product:

- (a) instructions for the proper use of the product; and
- (b) the terms and conditions of the warranty expressed in simple and readily understood terms.
- (c) name and address of the manufacturer and instructions for communicating with the manufacturer relating to the warranty.

Amend RSA 358-B:2 VI as inserted by section 1 of the bill by striking out the same.

Amend RSA 358-B:2 VII as inserted by section 1 of the bill by striking out the same and inserting in place thereof the following:

VI. In the sale of any consumer product to a retail buyer in this state any express warranty relating to the performance of such product made by the manufacturer or authorized by the manufacturer imposes on such manufacturer the duty to repair, replace, or refund at the option of the retailer, distributor or manufacturer. If repair is not possible or cannot be timely made, any product pursuant to the terms of such warranty shall be:

(a) repaired, replaced or refunded within a reasonable time not exceeding forty-five days, unless the buyer agrees in writing otherwise. Delays caused by conditions beyond the control of the maker of the guarantee shall serve to extend this forty-five day requirement. When such delay arises, delivery of livery of merchantable goods shall be made as soon as possible following termination of the condition giving rise to the delay.

(b) if replacement is necessary, to replace the product or to reimburse the buyer in an amount equal to the purchase price paid by the buyer, less that amount directly attributable to use by the buyer prior to discovery of the defect.

Amend RSA 358-B:3 through RSA 358-B:6 as inserted by section 1 of the bill by striking out the same and inserting in place thereof the following:

358-B:3 Enforcement by Attorney General. Whenever the attorney general, or his designee, has reason to believe that any violation of this law is a continuous practice, he may apply to the court for the purpose of restraining and enjoining the continuance of such violations and to obtain restitution for any aggrieved retail buyer. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

358-B:4 Retail Buyers' Remedies. Any retail buyer of a consumer product where the retail cash price is twenty-five dollars or more, who is injured by a violation of any provision of this law may, in addition to any other remedy provided by the laws of this state, bring an action for the recovery of damages. In such action, there may be awarded reasonable attorneys' fees and costs to the prevailing party.

358-B:5 Waiver Prohibited. Any waiver by the buyer of consumer products of the provisions of this chapter, except as expressly provided in this chapter, shall be deemed contrary to public policy and shall be unenforceable and void.

358-B:6 Uniform Commercial Code. The provisions of this chapter shall not affect the rights and obligations of parties determined by reference to the uniform commercial code except that, where the provisions of the uniform commercial code conflict with the rights guaranteed to buyers of consumer goods under the provisions of this chapter, the provisions of this chapter shall prevail.

358-B:7 Warranty Disclaimers Limited. No sale of consumer goods on an "as is" or "with all faults" basis shall be effective to disclaim the implied warranty of fitness unless a conspicuous writing is either attached to the goods or is prominently displayed nearby which clearly informs the buyer, prior to the sale, in simple and concise language of each of the following:

I. The goods are being sold on an "as is" or "with all faults" basis.

II. The entire risk as to the quality and performance of the goods is with the buyer.

III. Should the goods prove defective following their purchase, the buyer and not the manufacturer, distributor, or retailer assumes the entire cost of all necessary servicing or repair.

IV. In the event of sale of consumer goods by means of a mail order catalog, the catalog offering such goods shall contain the required writing in lieu of the requirement of notification prior to the sale.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Effective Date. This act shall take effect January 1, 1972.

Sen. KOROMILAS: Mr. President, the amendment to SB 234 relates to legitimate problems of the retailers in the State of New Hampshire. The Retailers Association felt that the bill was too harsh on the retailer so the amendment waters down the original bill. The major change is that this bill would not apply to any purchase under \$25. This is a consumer protection bill. It is very easy under our present law to put a few words expressly saying that there are no warranties. This bill does away with the implied warranty. That means that when you buy something, it should work as advertised.

Amendment adopted. Ordered to third reading.

SB 293

to provide for the citizen's right to sue to protect against damage to the environment. Refer to Judicial Council. Sen. Nixon for Judiciary.

Sen. NIXON: Mr. President, SB 293 was sponsored by Sen. Porter and it generally provides for citizens' rights to sue to protect against damage to the environment. This bill is in the interest of the public. The only difficulty was that the Senate Judiciary Committee had previously recommended that we pass SB 227 on an almost identical topic sponsored by Sen. Koromilas but incorporates some additional provisions bringing the Attorney General's Office into the picture. Having already passed the bill which would do the job, we recommended that this bill go to Judicial Council for study so as to provide for amendments to the existing law if necessary.

Resolution adopted.

SJR 25

providing that a referendum to determine the sense of

the voters on the Vietnam war be placed on the presidential preference primary ballot. Majority: Ought to pass. Minority: Inexpedient to legislate. Sen. Nixon for Judiciary, Majority. Sen. Koromilas & Sen. Lamontagne, Minority.

Sen. NIXON: Mr. President, SJR 25 was sponsored by Sens. Spanos, McCarthy, Foley, Nixon, Townsend, Morrissette, Snell, Provost and Jacobson. This bill, if enacted, would provide for a referendum on the question of the continuance of the Vietnam War in the March, 1972 primary election. The bill was sponsored at the request of the N. H. Vietnam Veterans Against the War. The war has lasted since approximately 1964. The operations in Vietnam have resulted in battle deaths of some 55,000 Americans and about another 45,000 have died in non-combat situations. Right now, about 49 Americans are killed a week. Our Congressmen from New Hampshire are all opposed to this war but apparently the federal Congressional Delegation did not feel that there was not much that they could do by way of affirmative action to end the war without a reading of the sentiment of the New Hampshire voters. It was with that in mind that these veterans came to us to assist them in placing the issue before the people and this resolution is a result of that request.

We are not here debating whether or not to get out of the war. We are merely debating whether or not the people here will have a direct voice via a referendum on the question. We believe that this resolution presents a means by which this can be done.

In that connection, it should be noted that on the radio yesterday, a reliable source had it indicated to him by leading members of the Communist Chinese Delegation in the Paris Peace Talks that if the U. S. would set a deadline for the withdrawal of our troops, the POW's would be returned. There is opposition to this referendum resolution on the basis that if we withdraw our troops, then the 55,000 who have given their lives will have died for nothing. I do not believe this to be true. The question is whether or not more American boys will have to die; whether they will have died for something or nothing seems to me to be a secondary consideration to whether or not they are going to have to die at all.

The resolution in original form has been amended by the Committee and the amendments are before you. If adopted, all

this resolution would do would be to place before the people of this state, four alternatives to select. These are (1) Win a military victory using whatever means necessary (2) Withdraw all our armed forces in accordance with a planned schedule by December 31, 1972 (3) The war be terminated or conducted on whatever basis the federal government deems advisable (4) Withdraw all our armed forces immediately, provided that all American war prisoners are simultaneously released. These last nine words appear in the amendment.

We should allow the people to speak on this issue. The news media has said that this resolution was prompted by some desire to affect the results of the primary in terms of the political implications to and for the various potential candidates for president. It seems unfortunate that an issue of this nature should be laid on the political table. The real issue is giving the Vietnam Veterans a chance to place this before the people, apart from politics.

Sen. KOROMILAS: With respect to the POW's, is it your understanding that these people are considered POW's by North Vietnam?

Sen. NIXON: I don't know what the people in North Vietnam consider them I myself think they are POW's and are generally considered as such.

Sen. KOROMILAS: Isn't it true that the North Vietnamese Government has said that these POW's are criminals and do not get the benefit of the Geneva Convention even though they are part of that convention?

Sen. NIXON: I don't care what they are called. All this resolution does is provide that if we withdraw our forces, it will be under the condition that our men are released.

Sen. LAMONTAGNE: Mr. President, I move that SJR 25 with the Majority and the Minority Report be indefinitely postponed. I feel that this resolution asks people to vote on something that they do not really understand. Those who have served in Vietnam and their families know the issue because they have had personal experience. The fact that this resolution has come in at such a late hour did not allow people to come in and express their views pro or con. Very few people were aware of the hearing but did not receive sufficient notice. Those who did appear were small in number — only nine.

I think it is wrong to ask our people to vote in a referendum on such an important issue as this one because I feel we have capable people representing us in Washington and we should have our confidence in them. None of us like war and I pray that God never brings a war to the United States because our people would never be able to face it! I served in WW II and know of the horrors! I hope that this resolution will be killed right here.

Sen. NIXON: Do you really think the notice of this hearing was concealed from either one side or the other?

Sen. LAMONTAGNE: I have always believed you to be an honest man and I believed you when you said that this was held up in Legislative Services.

Sen. NIXON: Thank you.

Sen. MORRISSETTE: Mr. President, I rise in opposition to the pending motion. I feel that this resolution is a right that should be given to the people to speak on this vital issue. I support our President, but I feel that our people should vote on this issue. If we pass this resolution, it will go to the House where additional public hearings can be held and we can make a final determination as to it going to the people.

I do not agree that our people do not have the mental capacity for making such a decision. They are well informed through our media and are capable of making a good decision.

Sen. SNELL: Mr. President, I also rise in opposition to the pending motion for indefinite postponement. I support this resolution for one basic reason — I feel the time element that Sen. Nixon pointed out — the number of years we have been in Vietnam — certainly should be the basic right of every American to speak on. We should give credit to each citizen who takes the opportunity to express their desires on Vietnam. If we take away this right, it is contrary to what our forefathers fought for. I hope that the Senate will pass SJR 25.

Sen. SPANOS: Mr. President, I rise in opposition to the motion for indefinite postponement and in favor of the Committee Report, "ought to pass" which eventually will be "ought to pass with amendment". I assure everyone here that I had no intention whatsoever of sponsoring any kind of resolution having to do with the Vietnam War when I came into this session.

A group of young veterans came to see us at the end of May. They were not knowledgeable about the parliamentary process of how a resolution could be introduced but were interested in doing so. In the time that we had to give them, we evolved this resolution. We got it together on a Thursday, gave it to the printer on Friday, got it in our hands on Monday, Tuesday night there was a hearing and Wednesday, it was before us. This was all in a small space of time only because of the immediacy of getting this resolution before this Chamber before all resolutions would die under our Joint Rules. They came to us asking for this support because they were quite disillusioned as to what had transpired in Washington. They wanted us to introduce the Shea Resolution but we said that it was out of the question because it would not pass. Upon the bill being printed, we immediately called the *Manchester Union Leader*, AP, UPI and all the wire services were alerted so that there would be notice of the public hearing to be held Tuesday. We did everything we could to make sure that there was an opportunity for all to be heard on this issue.

The important thing is that these young men were courteous, cooperative and very concerned. It was an obvious and genuine effort to operate within the democratic process and that is how this resolution was resolved. They wanted to do it the right way! I feel that in order not to further disillusion them, we should give them this form of expression.

I honestly convey to you that there is no political motivation involved in this resolution — it is just an effort to find out how the people of New Hampshire feel about this vital issue. These veterans just want to see the war end and hope that the resolution will have some effect on the administration. Those who sponsored the resolution are comprised of as many Republicans as Democrats — there are hawks and doves. Let the people vote on the issue. I hope you vote down Sen. Lamontagne's motion to indefinitely postpone.

Sen. FERDINANDO: Mr. President, I rise in support of the pending motion.

Sen. JACOBSON: Mr. President, I oppose the pending motion. I sponsored this measure, not as a fraud nor as a "cheap political trick." I resent the insinuation that this is the case. I entered my name on this resolution in the same way that I have sponsored other legislation for my constituents which I may not

necessarily believe in. But, I believe that the public should have the opportunity to hear a debate on an issue. People should have an opportunity to express themselves and what better way than a public referendum! We have been in this war for more than a decade. An article in the *New York Times* on Sunday indicated that 61 percent of the people today believe that we made a mistake in Vietnam. In 1965, only 34 percent believed that we made a mistake. This is a burning issue and this is the place where we should debate the issue. This is the reason why I entered my name on the resolution. I, myself, am a veteran of WW II. I know about war but that doesn't make the difference. We have a democratic system and should do everything we can to rise in participation.

Sen. S. SMITH: Mr. President, I rise in support of the motion offered by Sen. Lamontagne. I have heard the debate and listened to the emotion which has come forth on this issue more than any issue which has come before the Senate this session. Rightfully, it should come before this Senate because this is an emotional issue all over the country. This has affected all of us in every manner. I submit that a referendum on this question is not a solution. I don't believe that there is one senator here who wants to see our people in the Vietnam War for one single day longer than is absolutely necessary. A poll which will take place 8 months from now is not the solution. We are asking people to vote on a question which will not be presented to them for another 8 months and the issues will probably change by that time. The President does not want a war anymore than any of us. He has withdrawn troops and attempted to bring about a peace. He is continuing to do this. By raising this issue at this time and asking the people to vote, I don't think it is a responsible action of the Senate. I believe in the referendum but I am not convinced that this is a legitimate referendum. We can reflect our thinking by voting for those candidates who most closely come to our feeling in regards to the matter of Vietnam.

Under our constitution, this question lies with the responsibility of Congress and the President and this is where we should look in our elections — not with a poll which may be completely out of phase with our thinking in 8 months.

Sen. MCCARTHY: Mr. President, I rise against the pending motion. I am also a veteran and am extremely proud to be a sponsor of this resolution. I think this whole matter was han-

dled in admirable fashion by these young men who went to the proper people to go about this thing in a very legitimate manner. I think to deprive our citizens of a voice is a disservice. I cannot see any justification whatsoever of depriving the people of this state of that voice in expressing their opinion. It doesn't matter which way it comes out as long as they are allowed to have their say.

Sen. LEONARD: Mr. President, when this resolution was first discussed, I had my doubts about how I would vote. The resolution as it is now is going to get my vote. We all are against this war and the day we sent the first soldier into Vietnam was a horrible mistake because we had no intent to win the war. You cannot fight a war without an intent to win because if you don't win, the war never ends. Here we are 10 years later sending our young men for no goal whatsoever. I am a veteran of two wars — I fought combat in WW II and in Korea. I think that we all know that it was a mistake to get into Vietnam and the one thing which we have to do is to get out. I don't consider anyone a hawk or a dove. I think the people in Washington are concerned with polls. I think the issue in March, 1972 will be identical to the issue today and a year ago. We have to get out of Vietnam. I don't think the consensus will be to get out immediately — that is impossible. I don't think the consensus will be to win at all costs through whatever means. The people are disgusted with the war and I don't believe there is any harm in having a referendum on this. We have had wars for as long as man has been on the Earth and I hope that the new philosophy of living will help us get out of war in the future.

Sen. KOROMILAS: Mr. President, I rise in support of the pending motion. It seems to me that the main thrust of this particular bill is if a small group comes to you and asks you to put a question to a referendum, then for that reason alone you must proceed to do so. There are many people who disagree with the SST. I submit that if someone came to me and asked to put the SST question on referendum in this state, I would not do so because that is the prerogative of our Congress. We do not run our government by referendum. Pending in our Congress is the Hatfield-McGovern Amendment which would stop all funds for the prosecution of the Vietnamese War by the end of this year — December 31, 1971 if passed. Our Congressional Delegation is fully aware of the situation.

I think what has been lost in this debate is the fact that this country has been in the Paris Peace Talks for two long years trying to solve and bring this war to an end. We have competent representation in those talks. Unfortunately, there are political ramifications of every act that we perform in this Chamber. I do not agree with the *Union Leader* in attributing base motives to the sponsors of this resolution, however, I think that we cannot lose sight of the fact that there will be political ramifications and it will make the Primary become strictly a one issue matter — the Vietnam War — and that is not the issue. It should be the selection of candidates. I feel that if we were to adopt a referendum to be tacked on to our Presidential Primary, we may find that in the future, we will have a series of referendums.

Sen. LAMONTAGNE: Mr. President, I have three sons in the service and I have two of them overseas and all of them volunteered. I am very proud of them.

Question on indefinite postponement.

ROLL CALL

Requested by Sen. Lamontagne. Seconded by Sen. Poulsen.

Yeas: Sens. Lamontagne, Poulsen, S. Smith, Porter, Ferdinando, Koromilas.

Nays: Sens. Snell, Townsend, Gardner, Jacobson, Spanos, Nixon, Leonard, R. Smith, Morrisette, McCarthy, Provost, Brown, Marcotte, Downing, Foley.

Result: 6 Yeas; 15 Nays.

Motion lost.

Sen. Nixon moved the following amendment.

AMENDMENT

Amend the resolution by striking out all after the Resolving clause and inserting in place thereof the following:

That for the purpose of ascertaining the will of the people with reference to the method of terminating the war in Vietnam, the secretary of state shall cause to be placed on the conducted in March, 1972, the following question: "Which one ballot to be used at the presidential preference primary to be

of the following do you prefer with reference to the future course of action by the United States in Vietnam? Do not check more than one box."

A. Win a military victory using whatever means necessary.

B. Withdraw all our armed forces in accordance with a planned schedule by December 31, 1972.

C. That the war be conducted or terminated on whatever basis the federal government deems advisable.

D. Withdraw all our armed forces immediately, provided that all American war prisoners are simultaneously released.

Directly opposite each choice shall be a box for the voter to check his preference.

That the results of the balloting on said question shall be counted and returns of the same made, canvassed and published in the same manner as that provided by RSA 58:7 for declarations of preference for candidate for president.

Question on "ought to pass with amendment."

Amendment adopted. Ordered to third reading.

SUSPENSION OF RULES

Sen. SPANOS: I move that the rules of the Senate be so far suspended as to dispense with the proposed notice of hearing on SJR 25. Inadvertently it was not published in the *Calendar* of Tuesday, although the hearing was advertised by the newspapers.

Motion carried.

SUSPENSION OF RULES

Sen. NIXON: I move that the rules of the Senate be so far suspended so as to put SJR 25 on third reading and final passage at the present time.

Adopted.

THIRD READING AND FINAL PASSAGE OF SJR

SJR 25, providing that a referendum to determine the sense of the voters on the Vietnam war be placed on the presidential preference primary ballot.

Adopted.

Sen. Jacobson moved reconsideration.
Motion lost.

SJR 26

providing for a special legislative committee to study the methods by which a public defender system can be implemented in the state. Ought to pass. Sen. Koromilas for Judiciary.

Sen. KOROMILAS: Mr. President, SJR 26 provides, as the title indicates, for the question of methods by which a public defender should be submitted to a special legislative committee of the Joint Judiciary Committees.

Adopted. Ordered to third reading.

SJR 27

providing for a special legislative committee to study the feasibility of establishing a non-adversary juvenile and domestic relations court in the state. Ought to pass. Sen. Koromilas for Judiciary.

Sen. KOROMILAS: Mr. President, SJR 27 does the same thing with respect to SJR 26.

Resolution adopted. Ordered to third reading.

(Sen. Porter in Chair)

SB 32

recognizing common law marriage after thirty days cohabitation for the purpose of certain support obligations. Refer to Joint Senate and House Judiciary Committee. Sen. Jacobson for Judiciary.

Sen. JACOBSON: Mr. President, I sponsored SJR 27. SB 32 is a related subject. It was the Committee's opinion that having established this, it ought to go to this special Joint Committee to be furthered studied.

Resolution adopted.

SB 141

relative to the practice of optometry. Refer to the legislative study committee. Sen. Koromilas for Public Health, Welfare and State Institutions.

Sen. KOROMILAS: Mr. President, SB 141 was sponsored by Sen. Nixon and has to do with the definition of what an optometrist does. The Committee felt that the proper solution to

this problem should be amongst the various groups that are concerned.

Sen. NIXON: Mr. President, I move the words, "ought to pass" be substituted for the Committee Report, "refer to Legislative Study Committee." As the sponsor of SB 141, I think from the testimony at the hearing and from my own study that there are enough inter-related definitions in this and in SB 220 that in fairness to the practitioners of both professions, they should be treated equally in our legislative process. It seems to me that either both bills should be passed or they should be referred to the Legislative Study Committee so that their terms and provisions could be studied together.

Sen. SNELL: Mr. President, as Chairman of the Committee on Public Health, Welfare and State Institutions, we gave both of these bills a great deal of time, patience and listening. I feel as Sen. Koromilas does that we should send SB 220 in with the recommendation "ought to pass," however, refer SB 141 to Legislative Study Committee. I am also concerned that Sen. Nixon does have this great feeling towards equal opportunity for both groups which are involved with these two pieces of legislation. We discussed, at great length, on bringing both in with referral to the Legislative Study Committee, and also the possibility of holding these in our own Committee to work on them in the coming months.

Sen. MCCARTHY: Mr. President, I rise against the pending motion for "ought to pass." As Sen. Snell said, the members of this Committee spent a considerable amount of time on these bills. SB 141 has some serious problems and I don't think it is in the consumer's best interest at all. SB 220 is in the consumer's best interest and there is a definite need for that right now. I support the Committee Report to send this to the Legislative Study Committee.

Question on substituting "ought to pass" for the "refer to legislative study committee."

Motion lost.

Question on Committee Report.

Adopted. Referred to Legislative Study Committee.

SB 220

relative to the licensure and regulation of the practice of

opticianry. Ought to pass. Sen. Koromilas for Public Health, Welfare and State Institutions.

Sen. KOROMILAS: Mr. President, SB 220 was introduced by Sen. Bradshaw. This covers the licensure of opticianry. We were given certain types of advertising which was going on in this particular field. We feel that opticians are regulated.

Adopted. Ordered to third reading.

PRESIDENT IN THE CHAIR

SB 217

relative to the establishment of an electric power plant and major transmission siting and construction licensing procedure. Ought to pass. Sen. Poulsen for Public Works & Transportation.

Sen. POULSEN: Mr. President, SB 217 was heard by the Joint Committee of Public Works and Resources. It is an environmental bill that has to do with the location, construction and licensing procedure for electric generating plants and transmission lines thereof. It was favored by the environmental people and the utilities with one possible exception. I would like to yield to the sponsor of the bill who can give more detailed information than I.

Sen. PORTER: Mr. President, Sen. Foley was the sponsor of this bill. The bill had a Joint hearing yesterday. Several interested parties showed up at the hearing. The adoption of this bill will bring power to the people. Under the bill, a utility shall file with the Public Utilities Commission a ten year plan for the construction of power plants and lines. Those facilities which are scheduled for construction within the succeeding five years will be so designated with the start of construction. Within 90 days of the filing date and after public notice, the evaluation committee shall hold public hearings on sites so designated. Within 90 days after the hearing, the Site Evaluation Committee, by majority vote, will either approve or disapprove of the site. The bill goes on with other stipulations.

The Joint Committee heard favorable testimony from many parties. The only opposition was from one group who felt it would hold up the construction site in their particular areas. The Committee did not agree with this and pointed out that the grandfather clause stipulation did not pertain if they

make their applications within a reasonable amount of time. The Committee also has amendments to propose after the passage of the bill.

Sen. FOLEY: Mr. President, I am the sponsor of the bill. Sen. Porter has done an extremely good job of explaining this. Two years ago, I submitted a similar bill, however, it needed some revisions and this bill is the result of that further study. I hope that the Senate will pass this bill.

Sen. PORTER: Mr. President, I move the following amendment.

AMENDMENT

Amend RSA 162-E:2, I, (c) as inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

(c) An electric transmission line of a design rating in excess of 100 kilovolts that is in excess of ten miles in length over a route not already occupied by a transmission line or electric transmission lines of a design rating in excess of 100 kilovolts which the site evaluation committee or commission determines should require a certificate because of a substantial environmental impact.

Amend RSA 162-E:3 as inserted by section 1 of the bill by striking out said section and inserting in place thereof the following:

163-E:3 Site Evaluation Committee. The bulk power supply facility site evaluation committee shall consist of the executive director and aquatic biologist of the water supply and pollution control commission, the commissioner of the department of resources and economic development, the director of fish and game, the director of the office of planning, the chairman of the water resources board, the director of the radiation control agency, the executive secretary of the air pollution control commission, the commissioner of the department of health and welfare, the director of the division of parks, the director of the division of resources, the chairman of the public utilities commission and the chief engineer of the public utilities commission. The director of water supply and pollution control commission shall be chairman of the committee. Provided that in the event there is created an agency or depart-

ment whose function is the protection and preservation of the environment of the state, then the director of that agency shall be the chairman of the committee.

Amend RSA 162-E:4, II as inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

II. Identify the location of tentative sites for the construction of future power plants as defined in RSA 162-E:2, I, including an inventory of sites for all plants on which construction may be commenced in the succeeding five years, and the general location of the routes of transmission lines as defined in RSA 162-E:2, I and indicate the relationship of the planned sites, routes, and facilities thereon to the environmental values and describe generally how potential adverse effects on such values will be lessened. Such sites shall be indicated in relation to the location of existing plants and tentative sites planned or announced by utilities within a two hundred mile radius of the site.

Amend RSA 162-E:6, I, as inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

I. After the effective date of this chapter, no electric utility shall commence to construct any bulk power supply facility within the state unless it has obtained a certificate of site and facility with respect to those facilities, issued by the public utilities commission. Such facilities shall be constructed, operated and maintained in accordance with the terms of the certificate. Provided, however, that for four years from the effective date of this chapter, for good cause shown, all requirements in regard to scheduling of applications, hearings, approvals, and issuing of certificates may be shortened to allow commencement of construction to assure in-service dates for bulk power facilities which are needed to meet projected demands for electricity. No certificate is required for bulk power facilities already under construction or in operation on said effective date, but such certificates are required for sizable additions thereto as defined by the commission.

Amend the introductory paragraph to RSA 162-E:8 as inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

make their applications within a reasonable amount of time. The Committee also has amendments to propose after the passage of the bill.

Sen. FOLEY: Mr. President, I am the sponsor of the bill. Sen. Porter has done an extremely good job of explaining this. Two years ago, I submitted a similar bill, however, it needed some revisions and this bill is the result of that further study. I hope that the Senate will pass this bill.

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163-E:3 Site Evaluation Committee. The bulk power supply facility site evaluation committee shall consist of the executive director and aquatic biologist of the water supply and pollution control commission, the commissioner of the department of resources and economic development, the director of fish and game, the director of the office of planning, the chairman of the water resources board, the director of the radiation control agency, the executive secretary of the air pollution control commission, the commissioner of the department of health and welfare, the director of the division of parks, the director of the division of resources, the chairman of the public utilities commission and the chief engineer of the public utilities commission. The director of water supply and pollution control commission shall be chairman of the committee. Provided that in the event there is created an agency or depart-

ment whose function is the protection and preservation of the environment of the state, then the director of that agency shall be the chairman of the committee.

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Amend the introductory paragraph to RSA 162-E:8 as inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

I. The site evaluation committee, after having considered available alternatives and the environmental impact of the site or route, must find that the site and facility will not unduly interfere with the orderly development of the region with due consideration having been given to the views of municipal and regional planning commissions and municipal legislative bodies and will not have an unreasonable adverse effect on esthetics, historic sites, air and water quality, the natural environment, and the public health and safety, and shall send its findings to the commission within eighteen months of the filing of an application for a certificate of site and facility. The commission shall issue or deny a certificate and shall be bound by the findings of the site evaluation committee. In its decision, the commission must find the construction of the facility:

Amend the bill by striking out section 3 and inserting in place thereof the following sections:

3 Eminent Domain Procedure. Amend RSA 371 by inserting after section 1 the following new section:

371:1-a Procedure. Notwithstanding the procedures set forth in any other chapter, this chapter shall apply to all cases of eminent domain concerning public utility facilities.

4 Effective Date. This act shall take effect ninety days after its passage.

Sen. PORTER: Mr. President, the explanation I gave for the entire bill actually relates to the bill with the amendment. The bill has a lot of merit and the amendment is provided to deal with technical changes which should have been included. The word "transmission" was left out and the amendment includes it back in. Inadvertently, the Director of the Water Supply and Pollution Control Commission was left out of the Site Evaluation Committee. He was put back in on the Committee. The other amendments are similar in nature.

Amendment adopted. Ordered to third reading.

Sen. LAMONTAGNE: Mr. President, I wish to record my opposition to SB 217.

SB 278

providing that, with the approval of one parent, persons who have attained the age of eighteen years will be fully com-

petent to contract relative to motor vehicles. Ought to pass. Sen. Townsend for Public Works and Transportation.

Sen. TOWNSEND: Mr. President, SB 278 would permit 18 year olds to purchase motor vehicles and be responsible for the contract. At the present time, 18 to 20 year olds cannot be held liable for the contract. This is not an aid to the auto dealers because they presently protect themselves by requiring a co-signer, usually a parent or guardian. This law would still require the permission of one parent or guardian before it became a legal contract, but 18-20 year olds would be liable for the contract.

Adopted. Ordered to third reading.

SB 242

regulating the drilling of water wells and requiring a licensed driller. Ought to pass with amendment. Sen. Townsend for Public Works & Transportation.

AMENDMENT

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 New Chapter. Amend RSA by inserting after chapter 332 the following new chapter:

Chapter 332-A Water Well Drilling

332-A:1 Water Well Drilling; Definitions. As used in this chapter the following words shall have the following meanings:

I. "Board" means the water well contractor's board.

II. "Health department" means a town, county or city health department authorized to enforce this chapter and the rules, regulations and construction code adopted under this chapter.

III. "Well" means an opening in the surface of the earth for the purpose of removing fresh water or a test well, recharge well or waste disposal well.

IV. "Well drilling contractor" means an individual, firm, partnership or corporation qualified to engage in well construction and pump installation, who supervises the construc-

tion of water wells and the installation of pumps, and owns, rents or leases equipment used in the construction of water wells.

V. "Pump" means a mechanical equipment or device used to remove water from a well.

VI. "Pump installer" means a person who is qualified to engage in the installation, removal, alteration or repair of water well pumping equipment in connection with any water well.

332-A:2 Wells and Pumps Excepted. A well, pump or other equipment used for the relief or artesian pressure at construction projects, or used temporarily for dewatering purposes during construction, or for use associated with the drilling of oil, gas, or brine wells, is excepted from this chapter.

332-A:3 Private Wells or Pumps; Drilling Records. Nothing in this chapter shall prevent a person from constructing a well or installing a pump on his own or leased property intended for use only in a single family house which is his permanent residence, or intended for use only for farming purposes on his farm, and where the waters to be produced are not intended for use by the public or in any residence other than his own. Each person shall submit the drilling record required by RSA 332-A:11 and comply with any rule, regulation or construction code adopted under this chapter.

332-A:4 Master Plumber; Equipment Installation. This chapter shall not restrict a master plumber from engaging in his legally recognized trade. A master plumber may perform the work of a pump installer prescribed in this chapter, or rules, regulations and construction code adopted under this chapter without a certificate of registration as a pump installer under this chapter.

332-A:5 Certificates of Registration; Application; Fees. After May 1, 1972 a person, before engaging in the business of well drilling or pump installing, shall obtain a certificate of registration annually as a well drilling contractor or pump installer, using an application blank prepared by the board. The applicant shall pay a registration fee with his application as follows: The initial registration fee and the annual renewal registration fee for a well drilling contractor is forty dollars and for a pump installer is twenty-five dollars. A well drilling contractor shall pay an additional annual fee of ten dollars for

each additional drilling machine. A registered well drilling contractor may do any of the work of a pump installer without payment of the fee for a pump installer.

332-A:6 Transferal; Expiration and Renewals; Fees. The board shall issue the requirements of registration for well drilling contractors and pump installers who meet the requirements of this chapter. A certificate of registration is not transferable and expires on April thirtieth of each year. After July first of each year a certificate of registration may be renewed only upon application for renewal and payment of a fee of five dollars in addition to the regular registration fee.

332-A:7 Examinations; Eligibility. Until May 1, 1973, a well drilling contractor or pump installer with two years of experience in the work shall be registered without examination. Thereafter a new application for a certificate of registration shall be examined in accordance with rules, regulations and construction code adopted under this chapter. The board shall determine the eligibility of any well drilling contractor or pump installer for registration. A well drilling contractor or pump installer which is a firm, partnership or corporation shall designate at least one partner, officer or responsible full-time employee to take the examination on its behalf.

332-A:8 Registration; Issuance, Reciprocity Provisions. The board, upon application therefor and payment of the fees provided in RSA 332-A:5 may issue a certificate of registration as a well drilling contractor or a pump installer to any person who holds a similar certificate of registration in any state, territory or possession of the United States, or any foreign country, if the requirements for the registration of a well drilling contractor and pump installer under which the certificate of registration was issued do not conflict with the provisions of this chapter, are of a standard not lower than that specified by rules, regulations and construction code adopted under this chapter, and if equal reciprocal privileges are granted to a registrant of this state.

332-A:9 Local Government Units; Exemptions. A county, city, village, township or other governmental unit engaged in well drilling or pump installing shall be registered under this chapter, but shall be exempt from paying the registration fees if the drilling or installing is done by regular employees of, and with equipment owned by, the government unit and the work

is on wells or pumps intended for use by the governmental unit.

332-A:10 Placement of Registration Number. A well drilling contractor shall place in a conspicuous location on both sides of his well drilling machine his registration number in letters not less than two inches high. A seal furnished by the board designating the year the certificate of registration was issued or renewed and the words "New Hampshire registered water well drilling contractor" shall be affixed directly adjacent to the registration number.

332-A:11 Record of Completed Wells. Within sixty days after the completion of a well, a well drilling contractor shall provide the owner with a copy and the board with two copies of a record indicating the well owner's name, location of the well, well depth, geologic materials and thickness of materials penetrated, amount of casing, static water levels and any other information which may be required by the rules, regulations and construction code adopted under this chapter. Standard forms for the record shall be provided by the board or the contractor's forms may be used if approved by the board. A record for a drive point well where no earth materials are removed from the well bore is sufficient if the owner's name, well location, depth, casing, static water level and screen data are indicated.

332-A:12 Inspection; Access to Property. The board or its duly authorized representative may enter and inspect, at reasonable hours, on public or private property, any installation for the development of ground water supplies.

332-A:13 Violation of Chapter. When the board determines that there are reasonable grounds to believe there has been a violation of this chapter or any rule, regulation or construction code adopted under this chapter, the board shall investigate the violation. If the board establishes that a violation has been committed, they shall order the responsible person to make the proper corrections.

332-A:14 Revocation or Refusal. Certificate of registration may be refused, or certificate of registration duly issued may be suspended or revoked, or the renewal thereof refused by the board. Before any certificate of registration shall be refused, or suspended, or revoked, or the renewal thereof refused hereun-

der the board shall give notice of this intention so to do by registered mail.

332-A:15 Water Well Contractor's Board; Established. A water well contractor's board is established and shall consist of seven members. Four members who are residents of this state registered under the provisions of this act, at least three of whom are well drilling contractors, and who shall be appointed by the governor with the advise and consent of the council; the director of the division of public health, the executive director of the water supply and pollution control commission and the director of the division of resources development.

332-A:16 Terms of Office; Appointments Filling Vacancies. Each members of the board shall be appointed for a three year term. The terms of the four members registered under this act shall alternate so that not more than two are appointed each year, except that at the first appointment, one shall be appointed for one year; one for two years and two for three years. The terms of the three members, from the state departments shall be appointed for three year terms, except that at the first appointment one member shall be appointed for one year; one for two years, and one for three years. Vacancies shall be filled by appointment for the unexpired terms in the manner provided in RSA 332-A:15.

332-A:17 Duties of the Board. The members of the board, as soon as appointed, shall organize and elect from their number a chairman. Thereafter, annually when new members are appointed to the board, a chairman shall be elected at the next board meeting. The member from the division of public health shall be secretary of the board. The board shall hold at least one meeting each year for the purpose of examining candidates for registration. Additional meetings may be called by the chairman as may be reasonably necessary to carry out the provisions of this chapter. Four members shall constitute a quorum. The members of the board shall serve without compensation.

332-A:18 Rules and Regulations. The board shall adopt, and from time to time, amend, rules, regulations and construction code as are reasonably necessary to carry out the intent of this chapter. The rules, regulations and construction code shall include, but are not limited to, provisions for qualifications and examination of well drilling contractors and pump in-

stallars, standards for the construction and installation of developments of ground water supplies, abandonment of wells, and for the administration of this chapter.

332-A:19 Violation of Act; Misdemeanor. Any person who is convicted of a violation of any provision of this chapter or any rule, regulation or construction code adopted under this chapter or any order of the commissioner of health department is guilty of a misdemeanor, and shall be fined not more than one thousand dollars, or imprisoned not more than six months, or both.

332-A:20 Conflict with Other Laws. The provisions of any law, or regulation of any municipality establishing standards affording greater protection to the public health or safety, shall prevail within the jurisdiction of such municipality over this chapter and regulations adopted under this chapter.

Sen. TOWNSEND: Mr. President, SB 242 was introduced by Sen. Porter. The amendment is a complete rewrite of the bill, as suggested by Sen. Porter, to remove some of the objections which were brought up at the hearing by the drillers. The drilling contractor would be required to hold a registration certificate. The Well Drilling Board, established by this act, would oversee the licensing and the regulation. There is a need for a more complete recording of the information which well drilling discovers in order to more adequately assess the water resources of this state. We must protect our underground water supply. A complete recording is required by this law and this requirement is the most important section of the proposal. The Committee recommends the passage.

Amendment adopted. Ordered to third reading.

SUSPENSION OF RULES

Sen. Townsend moved suspension of the rules requiring a two day notice of hearing on SB 242.

Adopted.

Sen. Snell requested he be recorded as voting in opposition to SB 242.

COMMITTEE REPORTS CONTINUED

SB 196

relative to optional number plate legend. Inexpedient to legislate. Sen. Poulsen for Public Works & Transportation.

Sen. POULSEN: SB 196, introduced by Sen. Jacobson, allows for people to have the choice of using the legend, "Live Free or Die" or "Scenic New Hampshire" on their license plates. The Committee, on hearing the testimony and on hearing from the prison industry and the method by which they make these plates a year ahead, voted that it should be "inexpedient to legislate" because of the expense involved.

Sen. KOROMILAS: What is the motto of the State of New Hampshire?

Sen. POULSEN: "Live Free or Die."

Sen. JACOBSON: Mr. President, I move that the words "ought to pass" be substituted for the Committee Report, "inexpedient to legislate." Myself and the others who are sponsors of this bill have met with the Commissioner of Safety and Mr. Fuller who is in charge of the manufacturing of the license plates at the prison. As Sen. Poulsen indicated in his report, there is a cost factor if this were to be initiated immediately. In discussing this, we came up with a resolution that would eliminate that problem. The amendment that we plan to propose if the motion that I have made is adopted would provide that it would not take effect until April 1, 1973. It would also give some discretion with regards to when this option could be initiated by individuals who desire to have such an option. The Director of the Department of Motor Vehicle will have the option to set the time. Our expectation would be that in order to qualify for this option, you would have to indicate your desire one year ahead of the year that you would realize the option. If you wanted to have a plate for 1973, you would have to make the option when you apply for your plates in 1972. That is the essence of the amendment.

With respect to the question of the option — I may say that I am a little bit surprised at the American Legion who are opposing this option on the grounds of freedom. Surely the freedom would be in the option. I have always been a believer in the fact that as long as it interferes with no one else, you ought to have full liberty. That is one of the basic ingredients of the democratic principle. The Director of Motor Vehicles has stated that he has had a constant flow of complaints regarding this motto, largely because, in this instance, most people do not know the history of it, do not understand it, are confused with

respect to its meaning and implication. Several argued that "Scenic" exists in every state — that is true. I also believe that our state has an unusual amount of scenic quality. Another person argued that "Live Free or Die" was similar to "Land of Lincoln." If someone would rather have "Land of Franklin Pierce," I would be willing to have that as an option. Part of the objection to "Live Free or Die" is that some people believe that it is a hippie slogan. Sen. Nixon pointed out at the hearing that it is also the motto of the Black Panther Party.

This bill maintains "Live Free or Die" as the official plate, but allows an elasticity with regards to the option of having something else on the plate.

Sen. LAMONTAGNE: You don't feel that this is going to be an additional expense?

Sen. JACOBSON: I would presume that there would be some additional expense but sometimes we have to spend a little money to give a little freedom to the people.

Sen. S. SMITH: Mr. President, I rise in opposition to the pending motion. I think it becomes somewhat of an administrative nightmare when people request all different types of plates. There is one sole purpose for a license plate — that is for identification. I would hope that we could have some sort of uniformity as much as possible throughout the state.

Sen. LAMONTAGNE: Mr. President, I also rise in opposition to the motion. We are looking for additional revenue for the deficits we are facing and this would be quite an expense.

Sen. NIXON: Mr. President, I rise in favor of Sen. Jacobson's motion that the bill be passed. It may be of some interest to the Senate to know that our "Live Free or Die" is a derivation of the old Celtic war cry, "Beatha No Bas" which literally translated means "Life or Death". It did not enter New Hampshire folklore until 1809 when it was used in reference to the Battle of Bennington but it was not adopted as our motto until 1945. The word "Scenic" is a word of pleasant associations. It was also indicated to me by the Direction of Motor Vehicles that some of the numerous complaints he had received derived from the fact that motorist don't enjoy associating driving on the roads with the prospect of death. He also indicated that many rear end collisions were caused by people getting too close to the car in front in order to see the wording of the motto which is

very small. This motto is also the slogan of the Black Panther Party which has it painted in big, white letters on the church that they painted black, which is the national headquarters for the Black Panther Party in Los Angeles.

There is more than the surface issue on this bill. If we believe in the motto, "Live Free or Die" then we should permit others to live free by allowing them to have the choice. this bill would give. With regard to the expenditure situation, we were assured by Mr. Fuller, the state's Director of Prison Industries Division, that if the election could be made a year in advance, there would be no additional expenses whatsoever to the state. Many people have complained concerning this motto on the plates and they should have the freedom of choice the bill provides.

Sen. MORRISSETTE: Mr. President, I rise to speak against the bill. I feel that the two options which are given have no comparison. I am proud of the motto, "Live Free or Die." This is in the spirit of patriotism. I have received no complaints myself regarding our state motto.

Sen. Ferdinando moved the previous question.

Motion adopted.

Question on substituting "ought to pass" for Committee Report.

Motion lost.

DIVISION VOTE

Question on Inexpedient to legislate.

Result: Yeas 13; Nays 7.

Resolution adopted.

SB 257

establishing qualification standards for the licensing of individuals doing electrical installations and making an appropriation therefor. Ought to pass with amendment. Sen. Ferdinando for Public Works & Transportation.

AMENDMENT

Amend RSA 319-C:10 as inserted by section 1 of the bill by striking out said section and inserting in place thereof the following:

319-C:10 Licensing of Present Electricians and Special Purpose Permits. All persons who shall submit proof, under penalties of perjury, of full-time employment in the state as an electrician or in a position for which a special purpose license shall be required for a period of not less than three years prior to January first, 1972, shall be granted, upon application and payment of the requisite fee, the specific licenses applied for under the provisions of this chapter without examination. All such applicants shall reside in this state and be currently and actively engaged in such electrical installation work. "Actively engaged" shall mean such employment as constitutes the livelihood of the applicant. Failure to comply, without good cause, with the provisions of this section within sixty days of passage of this chapter shall invalidate an individual's rights under this section. "Good cause" shall be determined by the commission. Notice of licensing requirements shall be duly posted at wholesale electrical supply distributors and in the news media. Lack of knowledge of the requirement for a license shall not be good cause for not obtaining all necessary licenses and permits.

Amend RSA 319-C:11, VI as inserted by section of the bill by striking out said paragraph and inserting in place thereof the following:

VI. Electrical installations in ships, pipeline systems, railway rolling stock, automotive equipment, or portable sound equipment, or oil burner services; and

Amend RSA 319-C as inserted by striking out RSA 319-C:13, and RSA 319-C:14 and renumbering RSA 319-C:15, RSA 319-C:16, RSA 319-C:17, RSA 319-C:18, RSA 319-C:19, and RSA 319-C:20 to read respectively RSA 319-C:13, RSA 319-C:14, RSA 319-C:15, RSA 319-C:16, RSA 319-C:17, RSA 319-C:18.

Sen. FERDINANDO: Mr. President, SB 257 sets up the electrical code and safety features. The Committee felt that countless lives could be saved by having competent people do electrical work. The amendment merely eliminates the general provisions of person carrying badges and also excludes oil burner people from being included in this particular group. The Committee recommends its passage.

Amendment adopted. Referred to Finance.

SUSPENSION OF RULES

Sen. Ferdinando moved suspension of the rules requiring two days notice of hearing on SB 257.

Adopted.

COMMITTEE REPORTS CONTINUED

SB 282

providing for the reconstruction of the access road to Crotched Mountain Ski Area and making an appropriation therefor. Ought to pass with amendment. Sen. Poulsen for Public Works & Transportation.

AMENDMENT

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Appropriation. The sum of twenty-five thousand dollars is hereby appropriated for preliminary engineering and the sum of one hundred fifty thousand dollars is hereby appropriated for construction to be expended by the department of public works and highways, subject to the approval of the governor and council, for the reconstruction of said road. In order to provide the funds necessary for the appropriations made in this section, the state treasurer is hereby authorized to borrow on the credit of the state from time to time in accordance with RSA 6-A a total of one hundred seventy five thousand dollars for the purpose of carrying into effect the provisions of this act.

Sen. POULSEN: Mr. President, the amendment raises the money \$25,000 to allow for engineering to make the total \$175,000 instead of \$150,000. The bill is to enable a road to be made on the north side of Crotched Mountain. This is an agreement with the Department of Public Works. They feel that this money will have to be raised through IBA procedures and it is the only way this road can be made.

Sen. NIXON: Mr. President, I rise in support of SB 282. Unfortunately, Vermont is way ahead of New Hampshire in connection with bringing in revenue to the state through attracting tourists to ski areas, and this bill will do some small thing in that connection.

Amendment adopted. Referred to Finance.

SUSPENSION OF RULES

Sen. Poulsen moved suspension of the rules requiring a two day notice of hearing on SB 282.

Adopted.

ANNOUNCEMENT

The Chair would request the motions to suspend the rules be made prior to making the committee report.

RECESS

SUSPENSION OF THE RULES

Sen. Poulsen moved suspension of the rules requiring two days notice of hearing on SB 296, SB 297, and SB 292.

Adopted.

COMMITTEE REPORTS CONTINUED

SB 296

to permit use of streets for conducting street fairs, including retail selling on temporary basis. Ought to pass. Sen. Poulsen for Public Works & Transportation.

Sen. POULSEN: Mr. President, SB 296, introduced by Sen. Ferdinando, gives permission to the selectmen or governing body of a town to grant a license for street sales. Towns have had this permission but it was questioned by the City Attorney of Manchester and this clears up the matters. We move that it ought to pass.

Resolution adopted. Ordered to third reading.

SB 297

requiring certain markings and equipment on bicycles. Ought to pass. Sen. Poulsen for Public Works & Transportation.

Sen. POULSEN: Mr. President, SB 297 was sponsored by Sen. Foley. It is a delineation of the rules of bicycles as far as equipment and build goes — it governs the height of the handle bars, peddles, lighting and reflector elements. It is a safety bill and the Committee moves it ought to pass.

Adopted. Ordered to third reading.

SB 292

relative to abandoned and junk motor vehicles. Ought to pass. Sen. Poulsen for Public Works and Transportation.

Sen. POULSEN: Mr. President, SB 292 was sponsored by Sen. Porter and deals with the salvage problem in New Hampshire — the junk car. There are presently about 30,000 junk cars accumulating in the state each year. This bill authorizes the Commissioner of Safety to initiate a program and to levy a \$1 surcharge on each registration to fund the program. The bill was recommended by the Environmental Council and the Committee urges your support.

Resolution adopted. Ordered to third reading.

SB 138

to preserve the scenic beauty of town roads. Ought to pass with amendment. Sen. Porter for Resources & Environmental Control.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

providing for the designation of scenic roads and relative to town road aid.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Designation of Scenic Roads. Amend RSA 253 by inserting after section 16 the following new subdivision:

Scenic Roads

253:17 Scenic Roads; Designation. Upon recommendations or request of the planning board, conservation commission, or historical commission of any town, the voters thereof at any annual or special meeting, may designate any roads in said town, other than Class I or Class II highways, as scenic roads.

253:18 Effect of Designation as Scenic Road. Upon a road being designated as a scenic road as provided in RSA 253:17, any repair, maintenance, reconstruction, or paving work done with respect thereto shall not involve or include the cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, except with the prior written consent

the Senate will react to what they feel is right and not what a particular department head feels.

Sen. MORRISSETTE: Mr. President, I have supported every environmental bill that has come up and I feel that this bill would accomplish what it purports. Sen. Poulsen's district will be greatly influenced by this bill. I support this amendment.

Sen. NIXON: Mr. President, the amendment was not called to the attention of the Committee and it cuts the crux right out of the bill. We have worked hard on this bill and feel that we have come up with a reasonable and fair compromise to all who are concerned. I hope you will respect Sen. Poulsen's amendment.

Sen. DOWNING: Mr. President, I rise in support of the amendment as drafted by Sen. Poulsen. When this bill was recommitted, I felt it should have gone to Public Works and Sen. Poulsen, being Chairman of that Committee, is experienced in those affairs and the needs of the community and the TRA program.

Question on adoption of amendment as offered by Sen. Poulsen.

Division taken: 10 Yeas, 11 Nays.

Motion lost.

Question on ordering SB 138 to third reading.

Adopted.

SUSPENSION OF THE RULES

Sen. Porter moved suspension of the rules requiring two days notice of hearing on SB 289.

Adopted.

COMMITTEE REPORTS CONTINUED

SB 289

relative to timber cutting adjacent to public waters. Ought to pass. Sen. Porter for Resources & Environmental Control.

Sen. PORTER: Mr. President, SB 289 was introduced by Sen. Poulsen for the purposes of conservation, forest fire control and he was reinforced in his testimony by the Department of Resources. The bill has received a great deal of support from

the Society of New Hampshire Forests and other interested parties. The Committee urges its adoption.

Adopted. Ordered to third reading.

SB 136

relative to the taxation of farm, forest, wet and wild land. Ought to pass. Sen. Tufts for Ways and Means and Administrative Affairs.

Sen. TUFTS: Mr. President, SB 136 is a companion bill to a HB which was passed yesterday in the House. This defines what open space is, and ends up with the payment of some taxes and this is where the bills differ. It was found out by a study committee what the best means is to set how much tax shall be collected. The last part of this bill does indicate that these taxes with interest shall be paid. The Committee felt that these two bills would have to meet and eventually their differences would have to be ironed out in a Committee of Conference. But, the Ways and Means Committee of the Senate has looked with approval on this.

Sen. LAMONTAGNE: Mr. President, I would like to have the record show that I am fully in favor of this bill because I have been promised that this matter of the timber tax that I would have the opportunity to get together with some members of the House to correct the part that I am worried about for the North Country.

Sen. TOWNSEND: Mr. President, I would like to make it plain to the Senate that the timberland owners, particularly in the north, have been one of the strong supporters of this legislation from the start. This has been a combined effort of many, many citizens to develop some sort of land use taxation program which would enable us to at least slow down the rate of loss of our open space by development particularly, through the increased burden of rapid taxation. All the House bill does is to call for a committee to study this proposal.

It would be vehicle in case this one failed to come to some sort of a compromise. I hope the Senate will pass this bill and if there are any more adjustments to be made, I am sure the House will do it.

Sen. POULSEN: Supposing I had 20 acres of field land that I used for hay land which was valued by the town at \$50 an acre and I continued to hay that land for the next 10 years. At the

end of 10 years I sold that land to a developer for \$1,000 an acre. What would happen to my tax status — would I owe the town?

Sen. TOWNSEND: First, I assume you have applied and received classification that this is open space. This would be voluntary on your part, but this would not be done unless you applied for it — it is nothing automatic. You would then receive the appraisal for this land that the Open Space Board determined this land was valued at — it might be more than you are presently paying or less. This would remain from year to year. If at the end of ten years you sold it for some other figure, you would then be subject to the difference in the taxes that you did pay as to what you would pay if appraised at the figure that you sold it for up to 25 percent of what you sold it for. After you reach this 25 percent, it would not increase. This is as the bill is written at the moment. There is considerable feeling that there should be no rollback at all, but I don't buy this personally.

Sen. LAMONTAGNE: Mr. President, I want to make it clear that I am not voting against SB 136. I want to protect my people and that is why I reserve the right to act on HB 7. What happened in Maine could happen here concerning our timber lands.

Adopted. Ordered to third reading.

SB 266

relative to ordinary death benefits for certain group I members of the New Hampshire retirement system. Ought to pass with amendment. Sen. Porter for Ways and Means and Administrative Affairs.

AMENDMENT

Amend Paragraph II, Section 1 and 2 of the bill by striking out the same and inserting in place thereof the following:

II. Group I Members. Upon receipt by the board of trustees of proper proof of the death of a group I member in service, who has completed ten years of creditable service, indicating that such death was not the result of an accident occurring while in the performance of duty there shall be payable to the spouse until remarriage or prior death provided that at the time of his or her death the member was eligible for service retire-

ment, an allowance equal to fifty percent of the service retirement that would have been payable to the member had he or she retired immediately prior to the death, based on his or her average final compensation and creditable service at the time. If, at the time of his or her death, the group I member in service was not eligible for service retirement or, being so eligible, was not survived by a spouse, there shall be paid to the person nominated by the member by written designation filed with the board, in addition to the amount payable under RSA 100-A:11, a lump sum equal to the greater of either: (a) three thousand six hundred dollars, or (b) an amount which is equal to the deceased member's annual earnable compensation at the time of his or her death.

2 Appropriation. There is hereby appropriated for the fiscal year ending June 30, 1972 for the payments for state employees and teachers as provided herein, the following sums; \$120,883 from the general funds of the state (state employees \$71,049, teachers \$49,834); \$83,103 from highway funds; \$3,183 from fish and game funds; and \$38,255 from other funds, all totalling \$200,424 There is appropriated for the fiscal year ending June 30, 1973 for the payments for state employees and teachers as provided herein the following sums: \$132,972 from the general funds of the state (state employees \$78,154, teachers \$54,818); \$41,913 from highway funds; \$3,501 from fish and game funds; and \$42,080 from other funds, all totalling \$220,466.

Sen. PORTER: Mr. President, SB 266 does two things. The amendment takes into effect the change on adding group I employees to death benefits. This bill will have to go to Finance. This was introduced by Sen. Bradshaw to correct an adjustment in justice so that persons who have accrued privileges and rights under this system will not be denied them because of a technicality. A further amendment was added to include a death benefit service for Class I employees.

Amendment adopted. Referred to Finance.

SPECIAL ORDER OF BUSINESS AT 1:01

SB 177

relative to special motor vehicle registration numbers and the driver education fund. Ought to pass with amendment. Sen. Townsend for Transportation.

AMENDMENT

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 The Traffic Safety Fund. Amend RSA 262:1-a (supp) as inserted by 1957, 292:1 and amended by 1963, 152:1 and 1969, 244:1 by striking out said section and inserting in place thereof the following: 262:1-a Traffic Safety Fund. The proceeds from original license fees as provided in RSA 262:11 and service fees for initial number plates collected in accordance with RSA 260:10-a, after costs of plates and issuance of same have been appropriated and deducted, shall be expended solely for courses of instruction and training in safe motor vehicle driving conducted in or under the supervision of secondary schools. No portion of such funds shall lapse nor be used for any other purposes, nor be transferred to any other appropriation. After all costs of administration of the program each year of the biennium have been reserved and a forty thousand dollar contingency fund established, the unexpended balance each fiscal year shall be distributed to participating schools prorated on a per pupil basis for those who have completed the driver education program. Subject to final approval by the governor and council, the commissioner of safety jointly with the commissioner of education shall promulgate and publish rules and regulations governing the courses of instruction and training and determining eligibility of secondary schools to receive monies from said original license fee fund and initial plate fund.

Question on the motion as offered by Sen. Marcotte; indefinite postponement.

Sen. MARCOTTE: Mr. President, I withdraw my motion to indefinitely postpone SB 177.

Question on adoption of the amendment as offered by the Committee.

Sen. MARCOTTE: Mr. President, I move the following amendment.

AMENDMENT

Amend the bill by striking out section 2 and by renumbering sections 3 and 4 to read 2 and 3 respectively.

Sen. MARCOTTE: Mr. President, the \$5 fee for the issuance of plates is concerned in the amendment. Once a person requests a special plate in a series, the \$5 fee would be paid. It would also apply to those who have the same road number plates for quite a few years. I hope that the Committee will go along with the amendment.

Sen. TOWNSEND: Mr. President, I rise in opposition to the amendment. Here is an area that can raise some funds that can be used for a very worthy cause—driver education. Before a person under 18 can have a license, he must have training and we have an obligation to make this available whenever possible. Even this measure cannot cover the full cost of this program. I feel that someone should pay the \$5 for a low number as well as those do for the initial plates. For this reason, I hope that the Senate will see fit to kill this amendment and pass the bill as amended by the Committee.

Sen. S. SMITH: Do not these funds go back to the towns for educational use?

Sen. TOWNSEND: Yes, they do.

Sen. JACOBSON: At the present time, that money is set aside for the driver education programs. Now, in addition to that money, the monies from the low numbered plates will also go to that?

Sen. TOWNSEND: That is correct.

Sen. JACOBSON: What were the total receipts under the old program?

Sen. TOWNSEND: I don't have the exact figures but it was in the neighborhood of \$250,00 to \$300,000.

Sen. JACOBSON: Of that amount of money in the last biennium, has that fund been totally spent?

Sen. TOWNSEND: No.

Sen. JACOBSON: So there is a surplus?

Sen. TOWNSEND: There is a surplus. The proposal for the coming budget is to increase the payment to the districts participating from \$20 to \$40 per pupil in order to use not only what comes in next year, but this fund.

Sen. JACOBSON: If I have NA 247 and I want to repeat it, I have to pay the \$5?

Sen. TOWNSEND: That is correct.

Sen. LEONARD: Do you have statistics to show how many numbers were repeated last year?

Sen. TOWNSEND: No, I do not.

Sen. DOWNING: Mr. President, I would like to speak in favor of the amendment as offered by Sen. Marcotte. However, if the amendment does not carry, I would support the bill as amended by the Committee. I think the important thing here is that SB 177 does pass the Senate earmarking these funds for driver education.

Question on adoption of the amendment as offered by Sen. Marcotte.

Amendments adopted. Ordered to third reading.

SUSPENSION OF THE RULES

Sen. Snell moved suspension of the rules requiring notice of public hearing, posting of report in the *Calendar* and allowing introduction of Committee reports on SB 288, SB 314, SJR 18 and SB 316.

Adopted.

COMMITTEE REPORTS CONTINUED

SB 288

authorizing the department of welfare to make rental payments directly to the landlords of welfare recipients in certain cases. Ought to pass. Sen. Snell for Public Health, Welfare and State Institutions.

Sen. KOROMILAS: Mr. President, SB 288 would allow the Department of Welfare to pay rent directly to the landlord. Under the present law, (and I understand this to be a federal requirement) when a person is on welfare and monies are allocated to the recipient for rent, the money has to be paid to the recipient who then pays the landlord. This bill would authorize the Welfare Department to pay the rent directly to the landlord. If we do this, we will lose 60 percent of federal aid for this type of program.

Sen. DOWNING: Is this applied to the total rental program or just in cases where an exception had been made?

Sen. KOROMILAS: It is my understanding that it would be the total program.

Sen. SPANOS: Why, with all the bugaboo, did the Committee recommend that this bill ought to pass?

Sen. KOROMILAS: I yield to Sen. Snell.

Sen. SNELL: We realized this problem at a very late hour this evening and we planned to refer it to Finance due to the complications.

Sen. SPANOS: Does the measure carry an appropriation requiring the referral to Finance.

The CHAIR would answer the question — yes.

Sen. MORRISSETTE: Mr. President, I introduced this bill because I feel that there is a great injustice in these cases. I don't feel it will cost the state 60 percent — in fact, I think it will save 40 percent. I have come across cases where people get the money from the welfare for the rent and then refuse to pay the rent to the landlord. I hope the Senate will pass this bill. Many landlords are skeptical of taking in welfare people because some do not pay the rent and this is not fair to those who are trustworthy.

Sen. NIXON: Mr. President, I rise in support of Sen. Morrisette's bill.

Adopted. Referred to Finance.

SB 314

relative to the dissemination of information about voluntary sterilization and requiring state financial assistance in certain cases of voluntary sterilization. Ought to pass. Sen. Snell for Public Health, Welfare and State Institutions.

Sen. DOWNING: I move that further action on SB 314 be indefinitely postponed.

DISCUSSION

Question on the motion offered by Sen. Downing.

ROLL CALL

Requested by Sen. Morrissette. Seconded by Sen. Gardner.

Yeas: Sens. Lamontagne, Gardner, Ferdinando, Morrissette, Downing, Foley.

Nays: Sens. S. Smith, Snell, Jacobson, Spanos, Nixon, Porter, Leonard, McCarthy, Provost, Brown, Marcotte, Koromilas, Tufts.

Result: 6 Yeas; 13 Nays.

Motion lost.

Resolution adopted. Referred to Finance.

SB 316

relative to the sweepstakes commission. Ought to pass. Sen. Brown for Ways and Means and Administrative Affairs.

DISCUSSION

Adopted. Referred to Finance.

SJR 18

establishing a commission to study the feasibility of a three-year high school curriculum and making an appropriation therefor. Ought to pass with amendment. Sen. Jacobson for Education.

AMENDMENT

Amend the first paragraph of the resolution by striking out in lines one and two the words "That a commission is hereby established to study the feasibility of implementing a three-year high school curriculum in the state." and inserting in place thereof the words (That a commission is hereby established to study the feasibility of implementing procedures whereby students in this state may complete the high school curriculum presently constituted as grades nine through twelve and requiring four years in three three years.) so that said paragraph as amended shall read as follows:

That a commission is hereby established to study the feasibility of implementing procedures whereby students in this state may complete the high school curriculum presently constituted as grades nine through twelve and requiring four years in three years. In the course of said study, the commission shall consider the potential benefits of a three-year program

such as full-time utilization of school plant facilities, flexibility of curriculum and efficient utilization of staff weighed against its possible drawbacks such as difficulty of administration and incompatibility with other secondary and higher educational programs within and without the state.

Sen. JACOBSON: Mr. President, SJR 18 establishes a commission to study the feasibility of combining the present grades 9 through 12 into three years instead of four years. There is a growing interest nationally in this matter. It would have two interesting affects. One — it would put somewhat of a break on skyrocketing costs of schools. Two — it would provide for faster and greater utilization of already existing capital investments in school buildings and equipment. The Committee amendment was only to clarify what a three-year high school curriculum was — by defining it as the compression of grades 9 through 12 into a three year program. The bill has a \$3,000 appropriation.

Sen. LEONARD: Does this define the number of days per year they go to school?

Sen. JACOBSON: This does not deal with the question of 180 days nor with the question of year round school. They would have the normal four year load in three years.

Adopted. Referred to Finance.

SUSPENSION OF THE RULES

Sen. BROWN: Mr. President, I move that the rules of the Senate be so far suspended as to dispense with the requirement of notice of public hearing, holding of the public hearing, and notice of a report on SB 241 and SJR 28.

Adopted.

SB 241

establishing a state classified personnel and management study commission, and making an appropriation therefor. Ought to pass. Sen. Porter for Ways and Means and Administrative Affairs.

Sen. PORTER: Mr. President, SB 241 concerns itself with the study of the classified personnel and management in the state. There is an appropriation and under the rules, it will be referred to Finance.

Adopted. Referred to Finance.

SJR 28

establishing a committee to study the feasibility of off track betting and making an appropriation therefor. Ought to pass. Sen. Tufts for Ways and Means and Administrative Affairs.

Sen. TUFTS: Mr. President, SJR 28 would establish a committee concerned with off track betting. The Committee feels that this might help in our revenue problem. It has an appropriation and would go to Finance.

Adopted. Referred to Finance.

Sen. PORTER: Mr. President, I move that the order whereby HB 613 was made special order of business for Monday, June 14 be moved as special order of business on Tuesday, June 15th.

Motion adopted.

SUSPENSION OF THE RULES

Sen. S Smith moves the rules be suspended to allow introduction of Committee reports without notice of hearing, without holding hearing and without notice of report in the Calendar on: SB 291, SJR 34, SB 273, SB 309, SB 307, SB 315, SJR 32, SB 37, SB 306, SB 106, SB 243, SB 313, SB 225, SB 279, SB 312, SB 247, SB 245, SB 317, SB 287, SB 127, SB 188, SJR 35, SJR 30, SJR 31, SB 308, SB 318, SB 319, SJR 24 and CACR 34.

Adopted.

COMMITTEE REPORTS CONTINUED**SB 291**

repealing the bounty on bobcats. Ought to pass. Sen. Koromilas for Recreation and Development.

Sen. KOROMILAS: Mr. President, the bill is very simple — it removes the bounty on bobcats.

Adopted. Ordered to third reading.

SJR 34

establishing a commission to study the New Hampshire Retirement System. Ought to pass. Sen. Tufts for Ways and Means and Administrative Affairs.

Sen. TUFTS: Mr. President, it came to our attention that a number of problems existed in connection with the New

Hampshire Retirement System. This SJR 34 would establish a commission to study these problems.

Adopted. Ordered to third reading.

SB 273

to reduce automobile insurance premiums for good drivers. Ought to pass. Sen. Ferdinando for Banks, Insurance & Claims.

Sen. FERDINANDO: Mr. President, SB 273 was introduced by Sen. McCarthy and the Committee felt it is a good bill and we urge your adoption.

Adopted. Ordered to third reading.

SB 309

authorizing an increased penalty for the violation of city by-laws. Ought to pass. Sen. Jacobson for Executive Departments, Municipal and County Governments.

Sen. JACOBSON: Mr. President, in the 1969 session, the Legislature adopted a bill which lifted the town by-laws violation to a fee not to exceed \$50. It did not do so for the cities who are under a different chapter. What SB 309 does is to do exactly what we did in the last session — to lift the fee not exceeding \$50.

Adopted. Ordered to third reading.

SB 307

establishing a division of real and personal property appraisals within the tax commission. Ought to pass. Sen. R. Smith for Finance.

Sen. S. SMITH: Mr. President, Sen. Jacobson explained this bill earlier this evening relative to its merits in establishing a separate division within the Tax Commission. This went to Finance because of the financial aspect attached to it, however, what it in effect does is to change the personnel from one place to another. There are no added funds in this bill.

Adopted. Ordered to third reading.

SEN. S. SMITH PRESIDING**SB 315**

relative to continuing the office space study committee. Ought to pass. Sen. R. Smith for Finance.

Sen. BRADSHAW: Mr. President, I am not a member of the Finance Committee but this is my bill. We do have, at the present time, an office space study committee. This bill does not call for an appropriation. There might be a liability of \$40 or \$50 in the legislative budget, but all it does it to continue in existence the office space study committee, which I think has been doing a very fine job. I urge your support.

Adopted. Ordered to third reading.

SEN. BRADSHAW PRESIDING

SJR 32

extending to June 30, 1973 the lapsing of the 1969 appropriation to provide state flags to servicemen. Ought to pass. Sen. R. Smith for Finance.

Sen. S. SMITH: Mr. President, what this resolution does is to make non-collapsing an original \$2500 appropriation to send flags to servicemen in Southeast Asia. There is a balance of about \$750 left and it is felt that this would be adequate for the coming biennium. We urge your support.

Adopted. Ordered to third reading.

SB 37

relative to the hours of employment for female laboratory technicians. Ought to pass with amendment. Sen. Tufts for Ways and Means and Administrative Affairs.

AMENDMENT

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Extending Hours of Employment for Female Laboratory Technicians. Amend RSA 275:15 by inserting in line ten, after the word "fruit" the following: (or as a laboratory technician) so that said section as amended shall read as follows: 275:15 Females; Minors. No female, or minor under eighteen years of age, shall be employed or permitted to work at manual or mechanical labor in any manufacturing establishment more than ten hours in any one day, or more than forty-eight hours in any one week. No female, or minor under eighteen years of age, shall be employed or be permitted to work at manual or mechanical labor in any other employment, except household labor and nursing, domestic, hotel and cabin including dining

and restaurant service operated in connection therewith and incidental thereto, and boarding house labor, operating in telegraph and telephone offices and farm labor, or canning of perishable vegetables and fruit, or as a laboratory technician, more than ten and one-quarter hours in any one day, or more than fifty-four hours in any one week. Notwithstanding the provisions of this section the limitations on employment contained therein shall not apply to female paramedical personnel employed by licensed hospitals.

Sen. TUFTS: Mr. President, SB 37 had a public hearing and at that time, we established that it had merit. Hospitals had difficulty employing female laboratory technicians because those ladies necessarily had to work more than 10 hours some days because of the value of their work. It also appeared that there were paramedical women in the employment of the hospital and that is where our difficulty lay in getting the amendment drawn up. The Committee recommends its passage.

Amendment adopted. Ordered to third reading.

SB 306

relative to institutional collections. Ought to pass. Sen. Snell for Public Health, Welfare and State Institutions.

Sen. KOROMILAS: Mr. President, SB 306 was introduced by Sen. Smith. The State Hospital now requires a financial statement within 60 days after admittance by a person who is in the hospital or his family, under penalty of perjury. In the case of a person who has no means of support, he shall be supported by the state.

Adopted. Ordered to third reading.

SB 106

relating to filing notices under the timber conservation act and requiring an owner to furnish security for payment of the yield tax. Ought to pass with amendment. Sen. Poulsen for Executive Departments, Municipal and County Governments.

AMENDMENT

Amend the bill by striking out sections 2 and 3 and inserting in place thereof the following:

2 Declaration of Intention. Amend RSA 79:10 (supp), as amended, by striking out said section and inserting in place

thereof the following: 79:10 Notice of Intent to Cut. Every owner, including the state, a county or municipality, or public agency, shall, prior to commencing each cutting operation file with the proper assessing officials in the town where such cutting is to take place a notice of intent to cut, and forward two copies thereof to the state tax commission, upon a form prescribed and provided by said commission, stating his name, residence, an estimate of the amount and species to be cut and such other information as may be required. He may at his option furnish the stumpage price paid. A supplemental notice of intent shall be filed in the same manner on or before April first of any year for each operation not completed or terminated and which will continue after March thirty-first of each year. A copy of each notice received shall be forwarded by the tax commission to the division of resources development of the department of resources and economic development. The tax commission shall assign a number to each operation for which it receives a copy of a notice of intent to cut and shall notify the owner and the assessing officials thereof. It shall furnish without cost to the owner a receipt showing that a copy of an intent to cut has been filed with the commission. Such receipt shall be posted by the owner in a conspicuous place within the area of cutting for each operation conducted within a town. Failure to file a notice of intent to cut with the proper assessing officials or forward copies thereof to the state tax commission shall be a misdemeanor punishable by a fine not exceeding fifty dollars.

3 Bond Required for Cutting. Amend RSA 79 by inserting after section 10 the following new section:

79:10-a Bond Required

I. The assessing officials shall within thirty days of the receipt of the notice of intent to cut pursuant to RSA 79:10 notify the owner filing such notice in writing of

(a) The amount and conditions of any bond or other security which they deem necessary to secure the payment of any yield tax or bond and debt retirement tax due from the operation described in the notice of intent to cut, or

(b) Their decision to grant his request to be excused from the posting of such bond or other security.

II. No owner shall commence to cut until he has posted the bond or other security or been excused from posting such bond or other security pursuant to RSA 79:10-a, I.

III. The superior court shall issue such orders and decrees in the enforcement of this section as may be necessary and proper.

Sen. POULSEN: Mr. President, the amendment regulates the method of bonding guarantee of payment of timber taxes, which frequently do not get paid to towns. The bill itself tightens up the Timber Tax law and sets up the initial procedure of bonding. The Committee recommends its passage.

Amendment adopted. Ordered to third reading.

SB 243

relative to group life insurance plans. Ought to pass with amendment. Sen. Leonard for Banks, Insurance & Claims.

AMENDMENT

Amend the bill by striking out all words after the enacting clause and substituting the following therefor:

1 Policies to Employers. Amend RSA 408:15, (1), (d) by adding at the end of said paragraph the following: No policy may be issued which provides insurance on any employee which together with any other insurance issued to such employee under any group life policy or policies issued to the employer or to the trustees of a fund established wholly or in part by the employer exceeds eighty thousand dollars.

2 Policies to Labor Unions. Amend RSA 408:15, (3), (d) by striking out said paragraph and inserting in place thereof the following: (d) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the union. No policy may be issued which provides insurance on any union member which together with any other insurance issued to such member under any group life insurance policies issued to the union exceeds eighty thousand dollars.

3 Policies to Trustees. Amend RSA 408:15, (4), (d) as inserted by 1955, 79:1 and amended by 1965, 254:1 by striking out said paragraph and inserting in place thereof the following: (d) The amounts of insurance under the policy must be based upon

some plan precluding individual selection either by the insured persons or by the policyholder, employers, or unions. No policy may be issued which provides insurance on any person which together with any other insurance issued to such person under any group life insurance policy or policies issued to the employers or any of them, or to the trustees of a fund established in whole or in part by the employers or any of them, exceeds eighty thousand dollars.

4 Policies to Nonprofit Industrial Associations; Number. Amend RSA 408:15, (5), (b) by striking out said paragraph and inserting in place thereof the following: (b) The total number of insured employees must not be less than one hundred.

5 Policies to Nonprofit Industrial Association ; Amount. Amend RSA 408:15, (5), (e) as inserted by 1959, 190:1 and amended by 1963, 314:1 by striking out said paragraph and inserting in place thereof the following: (e) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the members of the association. No policy may be issued which provides insurance on any employee which together with any other insurance issued to such employee under any group life insurance policy or policies issued to the association exceeds eighty thousand dollars. Annual compensation may be determined in units of any amount not exceeding one thousand dollars each, and a fraction of any such unit may be treated as full unit for purposes of determining annual compensation under this section. Nothing in this section shall be construed to prohibit the issue of a policy or policies to replace a policy which is terminated wholly or to replace the terminated portion of a policy which is terminated partially, if the effective date of issue of the new policy or policies is the same as the effective date of termination of the policy or portion of a policy replaced, and if the total amount of life insurance on any employee determined in accordance with the provisions of the new policy or policies, does not exceed the amount determined in accordance with the provisions of the policy or portion of a policy replaced.

6 Policies Issued to Certain Associations. Amend RSA 408:15, (7), (d) as inserted by 1963, 99:1 and amended by 1967, 163:1 by striking out said paragraph and inserting in place thereof the following: (d) The amounts of insurance under the

policy must be based upon some plan precluding individual selection by the members and shall in no event exceed eighty thousand dollars on any one employee.

7 Effective Date. This act shall take effect sixty days after its passage.

Sen. LEONARD: Mr. President, SB 243 pertains to group life insurance plans. The original bill takes the ceiling off many plans for labor unions, non-profit industrial associations and certain associations. The amendment puts a ceiling of \$80,000 on each plan. Under the present law, the ceilings vary from \$20,000 to \$60,000.

Amendment adopted. Ordered to third reading.

SB 225

prohibiting the manufacture, sale and use of amphetamine-type drugs. Ought to pass with amendment. Sen. Koromilas for Public Health, Welfare and State Institutions.

AMENDMENT

Amend the bill by striking out the title and inserting in place thereof the following:

AN ACT

restricting the use of amphetamine-type drugs.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Broadens Definition of Amphetamine-type Drugs. Amend RSA 318-B:1, II by striking out said paragraph and inserting in place thereof the following:

II. "Amphetamine-type drugs" means amphetamines, its salts, optical isomers, and salts of isomers, methylphenidate, and chemical compounds which are similar thereto in psychological effect, and which show a like potential for abuse;

2 Amphetamines; Limited Use. Amend RSA 318-B (supp) by inserting after section 2 the following new section:

218-B:2-a Amphetamine-type Drugs. No amphetamine-type drugs shall be prescribed or dispensed by any physician, or pharmacist, unless said drug is to be used only in the treatment of narcolepsy or hyperkinesis. Notwithstanding the pro-

hibition of this section the division of public health services may, following a hearing pursuant to RSA 318-B:11 extend by regulation, other uses for such drugs.

3 Findings by Division of Public Health Services. Amend RSA 318-B:11 by inserting after paragraph II the following new paragraph:

II-a. Amphetamine-type Drugs. Notwithstanding the provisions of paragraph II, amphetamine-type drugs shall be considered as having a high potential for abuse, which can lead to severe psychological and physical dependence, and any medical use thereof shall be subject to severe restrictions.

4 Reporting Requirements. Amend RSA 318-B by inserting after section 12 the following new section:

318-B:12-a Amphetamine-type Drugs; Reporting. Practitioners, manufacturers, wholesalers, pharmacists, hospitals, laboratories and researchers which under the provisions of this act manufacturer, distribute, prescribe or dispense amphetamine-type drugs will at six month intervals report to the division of public health services of the department of public health and welfare the quantity of such drugs manufactured, distributed, prescribed or dispensed and the persons to whom such drugs were distributed, sold, prescribed or conveyed.

5 Effective Date. This act shall take effect sixty days after its passage.

Sen. KOROMILAS: Mr. President, the amendment to SB 225 covers three aspects of amphetamines. One — it adds precludin to this category. Second — this is to be used only in specific areas. Three — it requires the practitioner, the wholesaler, the pharmacist, etc. to report to the Division of Public Health to whom they are giving amphetamines to every six months. The bill would take effect 60 days after passage.

Sen. FERDINANDO: Mr. President, I move that further consideration on SB 225 be indefinitely postponed.

Motion lost.

Amendment adopted. Ordered to third reading.

SB 313

to protect the Appalachian National Scenic Trail within the State of New Hampshire and making an appropriation

therefor. Ought to pass with amendment. Sen. Porter for Resources & Environmental Control.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

to protect the Appalachian National Scenic Trail
within the State of New Hampshire.

Sen. PORTER: Mr. President, the amendment to SB 313 deletes the words "referral and making an appropriation therefor" because it was not the intent to have that in. There is no appropriation. The bill would put New Hampshire in favor of the National Trails System which includes 14 states. This adoption would allow New Hampshire to negotiate the right-of-way with land owners in preserving the Trail for future generations. The Committee urges its adoption.

Amendment adopted. Ordered to third reading.

SB 279

relative to registration and operation of motorized golf carts. Ought to pass with amendment. Sen. Koromilas for Recreation and Development.

AMENDMENT

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 VEHICLES. Amend RSA 72:15, III (supp) as amended by striking out said paragraph and inserting in place thereof the following: III. Vehicles. Vehicles in excess of the aggregate value of one hundred dollars; provided however, that motor vehicles, houses trailers and all trailers and semi-trailers used in connection with a vehicle of the tractor type, snow traveling vehicles, farm trailers and motorized golf carts shall not be regarded as vehicles.

3 Effective Date. This act shall take effect January 1, 1972.

Sen. KOROMILAS: Mr. President, SB 279 was introduced by Sen. Snell. The amendment is very technical and allows motorized golf carts to be attached.

Amendment adopted. Ordered to third reading.

SB 312

regulating the powers of the New Hampshire bicentennial commission on the American Revolution. Ought to pass with amendment. Sen. Jacobson for Executive Departments, Municipal and County Governments.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

regulating the powers of the New Hampshire American Revolution Bicentennial Commission.

Amend RSA 455:4-b as inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

455:4-b Further Powers. The New Hampshire American Revolution Bicentennial Commission, as established by 1969, 455:4 and 4-a (as inserted by 1970, 56:14) may, subject to the approval of the governor and council, enter into contracts and agreements for the manufacture or printing, and distribution of souvenirs, publications and other items endorsed or approved by it; provided, however, that any said contract or agreement shall not be an obligation of the state, unless there be an appropriation therefor. Whatever net proceeds of the sales thereof become due and payable to the commission shall be credited to its account by the state treasurer and may be expended in furtherance of its objectives, subject to the approval of the governor and council. The chairman or the treasurer of the commission shall have authority to enter into and sign contracts and agreements as provided for in this section.

Further amend the bill by striking out section 3 and inserting in place thereof the following new sections:

3 Corrections. Amend the Laws of 1969, 455:4 by striking out said section and inserting in place thereof the following:

455:4 American Revolution Bicentennial Commission. There is hereby established the New Hampshire American Revolution Bicentennial Commission for the purpose of co-

operating with the national commission for the observance of the two hundredth anniversary of the American Revolution (1775-1783). The said state commission shall be composed of the governor and twenty-five members to be appointed by the governor with the advice and consent of the council. Vacancies shall be filled in the same manner as the original appointments. In addition to cooperation with the national commission, the said state commission shall arrange for appropriate publication, public notice, and celebration, of notable events of the Revolution pertaining to this state including the capture of Fort William and Mary in December 1774, the adoption of the first state constitution in January 1776, New Hampshire's participation in the Battles of Bunker Hill and Bennington and such other like events as the commission may determine. The governor shall be ex officio honorary chairman; and the commission shall elect its own officers, including a chairman, vice chairman, secretary and treasurer. The commission is empowered to accept gifts and grants from whatsoever source and to enter into agreements regarding their expenditure. The state historical commission shall cooperate with and make available its facilities to the work of this commission. Members of this commission shall serve without compensation.

4 Effective Date. This act shall take effect sixty days after its passage.

Sen. JACOBSON: Mr. President, SB 313 in its original form authorizes the New Hampshire Bicentennial Commission to enter into contracts and agreements with the distribution of souvenirs and other memorabilia related to celebrations. It allows for cooperation with other states in coordinating the Bicentennial celebration.

The amendment renames the chapter according to the way in which the commissions have been issued. It reads, The American Revolution Bicentennial Commission instead of the present New Hampshire Bicentennial Commission on the American Revolution. It also amends so as to correct the date of our constitution from January, 1775 to January, 1776. It adds a sentence to the paragraph dealing with entering into contracts and provides that the Chairman of the Commission or the Treasurer may sign such agreements.

Amendment adopted. Ordered to third reading.

SB 247

relative to public notice, burden of proof and hearing requirements for city zoning. Ought to pass with amendment. Sen. Jacobson for Executive Departments, Municipal and County Governments.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

relative to public notice and hearing requirements for city zoning.

Amend the bill by striking out RSA 31:63-d, as inserted by section 1 of the bill.

Sen. JACOBSON: Mr. President, SB 247 introduced by Sen. Ferdinando, had two parts relating to zoning. The first part requires a more specific delineation of the public with respect to changes in the city zoning laws. The second part of the law introduced an intricately unique feature in which the burden of proof would be on the party alleging that the statute had been changed. The Committee felt that we were not quite ready for that so the amendment strikes out that part of the bill and also strikes out the question of burden and proof from the title of the bill.

Amendment adopted. Ordered to third reading.

SB 245

relative to zoning in the city of Manchester. Ought to pass with amendment. Sen. Jacobson for Executive Departments, Municipal and County Governments.

AMENDMENT

Amend the bill by striking out the title and inserting in place thereof the following:

establishing an arbitration commission to handle zoning disputes in the city of Manchester.

Further amend the bill by striking out all under the enacting clause and inserting in place thereof the following:

1 Arbitration Commission Established. In order to alleviate the dispute with respect to a zoning change within a certain parcel of land situated in Manchester, county of Hillsborough, state of New Hampshire, consisting of the area shown on the streets of Manchester official zoning map designated as zone R4, bounded on the north by Smyth Road, on the west by Mammoth Road, and extending southerly from Smyth Road along Mammoth Road to the vicinity of the intersection of Kennard Road with said Mammoth Road, there shall be established an arbitration commission to hear the testimony on the subject in dispute. Said commission shall consist of five members; one member from the senate executive departments, municipal and county governments committee, one member from the senate judiciary committee, one member from the house executive departments and administrative committee, one member from the house judiciary committee, and one member from the office of state planning. The chairmen of the above named committees shall appoint their respective members and the director of state planning shall appoint the planning office member.

2 Time, Location, and Posting of Hearing by Commission. The commission shall hold a hearing in the city of Manchester. Public notice of the hearing shall be listed fifteen days before the date of hearing and shall be published in the newspaper and posted in at least three public places.

3 Commission Reports. The commission shall make a report of its findings and recommendations to the board of aldermen of the city of Manchester and to the New Hampshire Legislature.

4 Effective Date. This act shall take effect upon its passage.

Sen. JACOBSON: Mr. President, SB 245 was introduced by Sen. Ferdinando and again introduced an interesting and unique situation in which it asked the Legislature to actually rezone an area. The Committee, however, felt that that would be usurping a power that is in the hands of the municipalities. However, when the testimony was given, there was much that was said that was contrary and with that in mind and with the fact that the Arbitration Commission idea was strongly established, the bill is amended to establish this commission to conduct a hearing in the City of Manchester to hear all sides on

this question. What this does is to establish a commission of five members; one member from the Senate Executive Departments, one from the Senate Judiciary Committee, one from the House Executive Committee, one from the House Judiciary Committee and one from the Office of State Planning. These shall hold a hearing in Manchester and will post a hearing at least 15 days before the day of the hearing and in a newspaper. They will make recommendations based on their findings to the Board of Aldermen and to the New Hampshire Legislature.

Amendment adopted. Ordered to third reading.

SB 317

to repeal charters of certain corporations. Ought to pass with amendment. Sen. Nixon for Judiciary.

AMENDMENT

Amend the bill by striking out the line item "Amoskeag Insurance Agency Corporation (Nashua, 1969)."

Sen. NIXON: Mr. President, SB 317 in original form, sponsored by Sen. S. Smith, is the bill whereby for failure to file annual returns, certain corporations are automatically required by law to be legislated out of existence. The amendment would exempt one corporation from the cancellation list — the Amoskeag Insurance Agency Corporation. The reason for the amendment is that lawyer for that corporation, by reason of his dedication to interests other than those of his paying clients, failed to file papers on time.

Amendment adopted. Ordered to third reading.

SB 287

providing for a unified court system for New Hampshire. Ought to pass with amendment. Sen. Nixon for Judiciary.

AMENDMENT

Amend RSA 490-A:2 as inserted by section 1 of the bill by striking out the same and inserting in place thereof the following:

490-A:2 Chief Justices of the Supreme and Superior Courts. The chief justice of the supreme court, with the advice and consent of the chief justice of the superior court in respect to all matters affecting the superior court, shall be responsible for supervising the efficient operation of all courts in New Hampshire. In meeting this responsibility, the chief justices shall re-

ceive the advice and cooperation of all persons and bodies interested in the administration of justice, including, but not limited to, the justices of all courts in New Hampshire, the judicial council, the administrative committee of the district and municipal courts, the administrative committee of probate judges association, the New Hampshire superior court clerks association, the court accreditation commission, the New Hampshire Bar Association, and all county and local bar associations.

Amend RSA 490-A:3, I as inserted by section 1 of the bill by striking out the same and inserting in place thereof the following:

I. The chief justice of the supreme court, with the advice and consent of the chief justice of the superior court in respect to all matters affecting the superior court, shall have the duties, power and authority to:

(a) Issue rules to provide for the expeditious disposition of all litigated matters, not inconsistent with any rules adopted pursuant to RSA 490:4 and RSA 491:10;

(b) Recommend provisions for adequate staff and personnel, including court administrators and stenographers, to meet increasing case loads;

(c) Recommend in formal oral or written address to each session of the general court such legislation as he deems necessary to improve the administration of justice in New Hampshire;

(d) Issue rules requiring the keeping of regular records as to the number, nature, and disposition of all matters handled by each judge at each level of the court system;

(e) Supervise and direct the work of the court accreditation commission;

(f) Issue such other rules as may be necessary for the improvement of the administration of justice, not inconsistent with any rules adopted pursuant to RSA 490:4 and RSA 491:10.

Amend sections 2 through 5 of the bill by striking out the same and inserting in place thereof the following:

2 Effective Date. This act shall take effect sixty days after its passage.

Sen. NIXON: Mr. President, SB 287 would establish a unified court system in New Hampshire whereby the Supreme Court, through its Chief Justice, would be given specific powers in regard to establishing rules to speed trials on all court levels, with the advice and consent of the Chief Justice of the Superior Court as to that court. It would also provide the Supreme Court Justice with the authority to recommend provisions for adequate staff, and personnel. The amendment would delete the provisions relating to the Judicial Council which were not felt to be advisable. The Committee unanimously recommends its passage.

Amendment adopted. Ordered to third reading.

SB 127

to improve the administration of the workmen's compensation law. Ought to pass with amendment. Sen. Lamontagne for Ways and Means and Administrative Affairs.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

to improve the administration of and increasing benefits under the workmen's compensation law.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Decrease of Exemptions. Amend RSA 281:2, I (supp), as amended, by striking out in line six the word "five" and inserting in place thereof the word (two) so that said paragraph as amended shall read as follows: I. Employer, with respect to private employment, means a person, partnership, association, corporation and the legal representative of a person, partnership, association or corporation, who employs one or more persons, whether in one or more trades, businesses, professions or occupations and whether in one or more locations except casual employees, farm labor when not more than two persons are employed, and domestic service, provided, however, that the owner of a dwelling house having not more than three apartments and who resides therein, or the occupant of a dwelling house of another, who employs persons to do maintenance, con-

struction or repair work on such dwelling or on the grounds or structures appurtenant thereto, shall not because of such employment be deemed to be an employer. In determining the number of persons employed there shall be included persons whose contract of employment was entered into outside the state, if they are actually employed on work in this state. For the purpose of determining the number of persons employed, executive officers elected or appointed and empowered in accordance with the charter and bylaws of a corporation shall not be considered to be employees, except that such executive officers in excess of three shall be counted as employees. Any other employer may elect to accept the provisions of this chapter in accordance with RSA 281:3.

2 Assessment of Civil Penalty Against Employer Failing to Comply. Amend RSA 281:10, as amended, by striking out said section and inserting in place thereof the following:

281:10 Liability of Employer Failing to Comply.

I. An employer subject to this chapter who fails to comply with the provisions of RSA 281:9 by not securing payment of compensation shall be assessed a civil penalty of ten dollars for each day of noncompliance beginning on the date of written notification by the labor commissioner. An insurance carrier which insures an employer and fails to file with the commissioner a notice of coverage within a reasonable period of time, as defined by regulation shall be assessed a civil penalty of ten dollars for each day of noncompliance beginning on the date of said commissioner's written notification to the carrier. The commissioner shall deposit all moneys collected by him under this section with the state treasurer.

II. An employee of an employer failing to comply with the provisions of RSA 281:9, or dependents in case death ensues, may file his application with the labor commissioner for compensation in accordance with the terms of this chapter, and the commissioner shall hear and determine such application for compensation in like manner as in other claims before him; and the compensation so determined shall be paid by such employer to the person entitled thereto no later than ten days, excluding Sundays and holidays, after receiving notice of the amount thereof as fixed and determined by the commissioner. An abstract of the award shall be filed by the commissioner in the office of the clerk of the superior court in any county in the

state and shall be docketed in the judgment docket thereof and shall be a lien upon the property of the employer situated in the county for a period of eight years from the date of award; the commissioner shall instruct the sheriff of the county to levy execution as soon as possible thereafter, but no later than eight years, in the same manner and with like effect as if his award were a judgment of the superior court.

3 Unsafe Working Conditions. Amend RSA 281:29 by striking out said section and inserting in place thereof the following: 281:29 Double Compensation. Any employer who is liable for the compensation provided by RSA 281:22, 23, 25, and 26 shall, upon being found in violation of any provision of RSA 277, as amended, and RSA 276-A insofar as the latter chapter deals with prohibiting hazardous occupations for youth, when there is recorded in the department a prior violation of the same kind or when the employer has failed to comply with written departmental recommendations applicable to a first violation within the reasonable period allowed, become liable for twice the amount of such compensation, provided, however, that if payment of compensation is secured pursuant to RSA 281:9, I, he and his insurance carrier shall share equally the payment of compensation hereunder. Such employer shall, upon demand of the labor commissioner, make payment of double compensation. Any employer who fails to make payment of compensation pursuant to the provisions of this section shall be assessed a civil penalty not to exceed one hundred dollars. Upon continued failure of the employer to comply with either an order for payment of compensation or assessment of a civil penalty, the commissioner shall recover either or both in a civil action in the superior court of the county of jurisdiction. Civil penalties owed under this section shall be paid to the commissioner and deposited by him with the state treasurer.

4 Civil Penalty for Failure to Make Payment of Compensation. Amend RSA 281 by inserting after section 36-a the following new section: 281:36-b Failure to Make Payment of Compensation. Any insurance carrier or self-insurer who fails to make payment of compensation pursuant to RSA 281:23 and 25 or to deny such compensation and to file with the labor commissioner a memorandum of either action, on a form prescribed by him, and, in case of denial to make available to the claimant a copy of the memorandum, giving a valid reason for denial and advising the claimant of his right to petition the

commissioner for a hearing, no later than seven days after the waiting period provided by RSA 281:20, shall be assessed a civil penalty of twenty-five dollars, provided, however, that an insurance carrier or self-insurer will be relieved of having to meet the foregoing time limit if, (1) upon showing cause to the commissioner, he has obtained the desired extension of time, or, (2) if and to the extent, that an employer, except a self-insurer, has failed to comply with the requirements of RSA 281:46. Upon failure of any insurance carrier or self-insurer to comply with either an order for payment of compensation or assessment of a civil penalty, the commissioner shall recover either or both in a civil action in the superior court of the county of jurisdiction. Civil penalties owed under this section shall be paid to the commissioner and shall be deposited by him with the state treasurer. The commissioner shall submit to the insurance commissioner the record of an insurance carrier which consistently fails to comply with the provisions of this section. In the event that the insurance commissioner should, upon investigation, find the carrier to be in substantial noncompliance, he shall demand compliance, failing which he shall suspend or revoke such carrier's authorization to carry out the business of workmen's compensation in this state. Likewise, the labor commissioner shall, as he deems necessary, suspend or revoke the self-insurer's permit of an employer who consistently fails to comply with the provisions of this section and the regulations promulgated hereunder.

5 Spouses' Actions Barred. Amend RSA 281:12 (supp), as amended, by striking out said section and inserting in place thereof the following: 281:12 Employees Presumed to Have Accepted. An employee of an employer subject to this chapter shall be conclusively presumed to have accepted the provisions hereof and to have waived his rights of action at common law to recover damages for personal injuries against his employer, or against the employer's insurance carrier as defined in RSA 281:2, VII. The spouse of an employee entitled to benefits under this chapter shall have no right of action at common law against the employer, or the employer's insurance carrier as defined in RSA 281:2, VIII, to recover for consequential damages.

6 Employers' Responsibility to Report. Amend RSA 281:46, as amended, by striking out said section and inserting in

place thereof the following: 281:46 Responsibility of Employer to Provide Vital Information. I. Every employer, or self-insurer, shall record in sufficient detail and shall report, or cause to be reported, to the labor commissioner, all injuries sustained by his employees in the course of their employment, as soon as possible, but no later than five days after the knowledge of the occurrence of such an injury. In the event that an injury results in a disability extending during the entire waiting period provided by RSA 281:20, the employer shall file with the commissioner a supplemental report, giving notice of such disability, as soon as possible after such waiting period, but no later than ten days after the accidental injury. A copy of either report shall be made available to the nearest claims office of the employer's insurance carrier. With respect to self-insurers, the supplemental report need not be filed with the commissioner and the insurance copy of the employer's first report may be used for his file. Upon failure of any employer, or self-insurer, to file a first report as set forth herein, the commissioner shall assess a civil penalty of twenty-five dollars. Upon failure of any employer, or self-insurer, to make payment of civil penalty, the commissioner shall recover same by a civil action in the superior court of the county of jurisdiction. Civil penalties owed under this section shall be paid to the commissioner and deposited by him with the state treasurer.

II. Any employer who consistently fails to make available to the commissioner and the employer's insurance carrier the information required by said carrier to make payment of disability compensation in manner consistent with RSA 281:36-b, shall, after he has been given due notice of noncompliance and opportunity to effectuate compliance, be assessed by the commissioner a civil penalty not to exceed one hundred dollars. Upon failure of an employer to pay such penalty and/or to comply with the requirements of RSA 281:46, I, the commissioner shall recover the penalty and petition for an injunction in a civil action in the superior court of the county of jurisdiction.

7 Clarification of Medical, Hospital and Remedial Care Provisions. Amend RSA 281:21 (supp) as amended, by striking out said section and inserting in place thereof the following:

281:21 Medical, Hospital, and Remedial Care.

I. An employer subject to this chapter, or his insurance carrier, shall furnish to an injured employee, or cause to be furnished, reasonable medical, surgical, and hospital services, remedial care, nursing, medicines, and mechanical and surgical aids, as needed. The injured employee shall have the right to select his own physician.

II. The employer, or his insurance carrier, shall pay the cost of artificial limbs, eyes, teeth, orthopedic appliances, and physical and surgical aids made necessary by such injury, and he shall pay the cost of replacement or repair when such is made necessary by reason of wear and tear or physical change in the person. Whenever an employee, by accident arising out of and in the course of the employment has suffered the loss of glasses, false teeth, an artificial member, or hearing aid, said employee shall be paid an amount equal to the value of the property so lost.

III. In the event that any of the foregoing objects, in existence at the time of the injury, are damaged or destroyed as a result of an injury, the employer, or his insurance carrier, shall pay the cost of repair or replacement.

8 Improvement in Contested Cases Procedures.

Amend RSA 281:37 (supp), as amended, by striking out said section and inserting in place thereof the following:

281:37 Hearings and Awards.

I. In the event of a controversy as to the responsibility of an employer, or his insurance carrier, for the payment of compensation and other benefits under this chapter, any party at interest may petition the labor commissioner, in writing, for a hearing and award. Said commissioner, or his authorized representative, shall schedule a hearing, fixing its time and place and giving a notice thereof of at least fourteen days. The notice shall be given in hand or by certified mail, return receipt. At such hearing full consideration shall be given to all evidence presented and it shall be incumbent upon all parties to present all available evidence. No later than thirty days thereafter the commissioner, or his authorized representative, shall render his decision and shall forthwith notify the parties thereof. Failure of any or all parties at interest to appear at a duly scheduled hearing or to petition for a continuance shall bar such parties from complaining about an adverse decision, a decision

by default, or dismissal of petition for hearing and award. An appeal from a decision of the commissioner, or his authorized representative, may be taken to the superior court of jurisdiction, no later than thirty days from the date of such decision. The venue shall be according to civil action in personam between the same parties, and the court shall set a time and place for hearing and order at least fourteen days' notice thereof to the parties. At such hearing a full trial shall be had before a justice of the superior court, without jury, and within thirty days thereafter the court shall make its award setting forth its finding of fact and the law applicable thereto, and the clerk of court shall forthwith send to each of the parties and to the labor commissioner copies of such award. The decision of said court shall be enforceable in the same manner as an equity decree, and appeals from such decisions may be taken to the supreme court; but in no case shall such an appeal suspend the operation of an award unless the court from which such appeal is taken shall so order.

II. A decision of the labor commissioner shall take effect upon date of notification and become final, in the absence of an appeal therefrom, thirty days thereafter. Payment of weekly compensation shall begin and/or continue as soon as possible after the decision's effective date, but no later than five work days thereafter, and shall not be terminated, except in accordance with the terms of the commissioner's decision or by final court determination. Upon failure of an employer, or his insurance carrier, so to comply with his decision, the commissioner shall assess a penalty not to exceed twenty-five dollars for each day of non-compliance, beginning on the date of notification of assessment. Upon continued failure to comply with an order to make payment of compensation and/or penalty, the commissioner shall petition the superior court of jurisdiction for an injunction to comply. All penalties collected under this section shall be deposited by the commissioner with the state treasurer.

9 Award of Fees and Interest. Amend RSA 281:37-a (supp), by striking out said section and inserting in place thereof the following: 281:37-a Award of Fees and Interest. In all cases in which an attorney secures an award for the claimant, it shall be deemed that the claimant prevails and the labor commissioner or the court shall approve the amount of attorney's fees in addition to the award.

10 Repeal. RSA 281:28 relative to compensation for loss of certain property is hereby repealed.

11 Increase in Compensation for Death. Amend RSA 281:22 (supp), as amended, by striking out said section and inserting in place thereof the following:

281:22 Compensation for Death. If death results from the injury, weekly compensation shall be paid to the dependents of the deceased employee, as defined in RSA 281:2, IX, in an amount provided by the compensation schedule in RSA 281:23. Weekly payment made under this section shall not exceed three hundred and forty-one or the sum of thirty-one thousand three hundred seventy-two dollars. Weekly payments made under RSA 281:23, 25, or 26 shall be deducted from the foregoing maximums. It is provided, however, that a widow or widower having dependent children shall receive compensation as set forth by the weekly compensation schedule of RSA 281:23 until all dependent children have reached termination of compensation as set forth by paragraph VI of this section.

I. In all cases where compensation is payable to a widow or widower for the benefit of herself or himself and dependent child or children, the labor commissioner shall have power to determine, from time to time, in his discretion what portion of the compensation shall be applied for the benefit of any such child or children and may order the same paid to a guardian.

II. In the case of remarriage of a widow without dependent children compensation payments shall cease.

III. In case of remarriage of a widow who has dependent children the unpaid balance of compensation which would otherwise become her due shall be payable to the mother, guardian, or such other person as the labor commissioner may order, for the use and benefit of such children during dependency.

IV. The employer, or his insurance carrier, shall pay burial expenses not to exceed one thousand dollars.

V. Any dependent as defined herein, except a widow, widower, child or children who at the time of the injury of the in-such proportion of the benefits provided for those wholly de-

jured is in part only dependent upon his earnings, shall receive dependent as the amount of the wage contributed by the deceased to such partial dependents at the time of the injury bore to the total support of the dependents.

VI. Compensation for a dependent child shall cease when a child becomes twenty-one years of age, unless the child is physically or mentally incapacitated, or earlier if the child is determined by the labor commission to be self-supporting or upon the marriage or legal adoption of such child.

12 Increase in Compensation for Total Disability. Amend RSA 281:12 (supp), as amended, by striking out said section and inserting in place thereof the following:

281:23 Compensation for Total Disability. An employer subject to this chapter, or his insurance carrier, shall pay to an employee sustaining a personal injury as defined in RSA 281:2, V, compensation during a period of total disability of seven or more days, such compensation to be paid in amount provided by the following compensation schedule.

SCHEDULE OF WEEKLY COMPENSATION BENEFITS

Average Weekly Wage		Weekly Compensation Rate
At Least	But Less Than	
30	35	30
35	40	32
40	45	35
45	50	38
50	55	41
55	60	44
60	65	47
65	70	50
70	75	53
75	80	56
80	85	59
85	90	62
90	95	65
95	100	68

Average Weekly Wage		Weekly Compensation Rate
At Least	But Less Than	
100	105	71
105	110	74
110	115	77
115	120	80
120	125	83
125	130	86
130	135	89
135	and over	92

When an average weekly wage as defined in RSA 281:2, VII is less than \$30.00 per week, the weekly compensation shall be the full amount of such average weekly wage.

13 To Make Compatible Compensation for Temporary Partial with Compensation for Temporary Total Disability. Amend RSA 281:25, as amended, by striking out said section and inserting in place thereof the following: 281:25 Compensation for Temporary Partial Disability. Where the disability for work resulting from an injury is partial, the employer during such disability, but not including the first seven days thereof, unless such disability continues for seven days or longer, shall pay to the injured employee a weekly compensation equal to sixty-six and two-thirds per cent of the difference between his average weekly wage before the injury and the average weekly wage which he is able to earn thereafter, but in no instance shall the weekly compensation exceed the amounts set forth by the compensation schedule in RSA 281:23. Payments shall not continue after the disability ends, nor longer than three hundred and forty-one weeks, and in case the partial disability begins after a period of total disability, the period of total disability shall be deducted from such total period of three hundred and forty-one weeks.

14 Increase in Permanent Partial Disability. Amend RSA 281:26 (supp) as amended, by striking the unnumbered introductory paragraph and inserting in place thereof the following: 281:26 Permanent Partial Disability. In case of disability partial in character but permanent in quality, compensation shall be paid in accordance with the compensation schedule in RSA 281:23 and the following schedule of benefits:

15 Amend RSA 281:30 (supp), as amended, by striking out said section and inserting in place thereof the following: 281:30 Maximum Benefits. In no case except as provided in RSA 281:25, 26, and 29 shall the weekly compensation payable under this chapter exceed the benefits set forth in RSA 281:23, nor shall any payments, including medical, hospital services, and other remedial care under RSA 281:21, except as specifically provided therein, extend over a period of more than three hundred forty-one weeks from the date of injury.

16 Second Injury Fund. Such parts of 281:48, as amended, which provide for payments in to the second injury fund are hereby suspended for the period July 1, 1971 to July 1, 1973.

17 Effective Date. Section 1 shall take effect thirty days after passage. The remainder of the act shall take effect July 1, 1971.

Sen. LAMONTAGNE: Mr. President, it took eight months to get a bill agreed by both labor and management. This is what the amendment does:

Section 1 — Reduces the farm labor exemption for compulsory workmen's compensation coverage from five persons to two.

Section 2 — Provides for assessing a penalty of \$10.00 for each day of non-compliance when an employer fails to comply with the provisions of Section 9 of the Law. This section further provides for adequate procedure to allow the Labor Commissioner to enforce a judgment in a case where the employer is liable for a compensable injury and has not complied with the provisions of Section 9.

Section 3 — Provides for double compensation when an employer has been found in violation of a health and safety standard or illegal employment after due notice in writing by the Labor Department seeking a compliance of such unsafe condition.

Section 4 — Imposes a civil penalty for failure of an insurance carrier or self-insurer to pay compensation benefits within a reasonable period of time as established by administrative regulations.

Section 5 — Bars a spouse's action to recover damages for personal injuries against an employer at common law action.

Section 6 — Provides for a civil penalty of \$25.00 when an employer fails to report an injury no later than five days after knowledge of same.

Section 7 — Clarifies the intent of providing medical hospital and other remedial care unlimited in dollar amounts and periods of time.

Section 8 — Provides that an employer or its insurance carrier shall begin or continue to pay weekly compensation to an injured worker on an award by the department after a hearing until either the matter is resolved to the court level or if decision is accepted by petitioning the Labor Department for relief through presentation of medical evidence.

Section 10 — Existing Section 28 of the Law is repealed as compensation for loss of property has been moved to the medical section of the Law.

Section 11 — Compensation to dependents for death of an employee is increased from the existing maximum weekly benefit of \$67.00 to a maximum of \$92.00 set forth in Section 12 of the bill. The minimum compensation is increased from \$20.00 per week to \$30.00 per week with built-in increases in other brackets as set forth in this schedule.

This section further provides for compensation to be paid to dependent children of the deceased until they reach the age of 21 years or become self-dependent. This has been increased from the existing maximum payment of 341 weeks from the date of the injury.

Section 12 — Clarifies payment of disability benefits so that payments will be made for total disability for an indefinite period of time.

This section also provides a schedule of weekly compensation benefits providing increases as explained in the previous section of the bill. This section also clarifies that temporary partial compensation shall not exceed those maximum benefits as provided in this schedule in this section of the bill.

Section 13 — The permanent partial disability section of the Law as amended provides for increases in weekly compensation as set forth in the schedule in Section 12 of this bill.

Section 14 — The maximum benefits section of the Law is amended to reflect the changes set forth in the previous weeks dealing with change and provides by amounts and time.

Section 17 was added because the farmers under Section 1 would be facing a problem because it was felt that the farmers would not be able to get insurance. The Committee urges your adoption.

Sen. FERDINANDO: Mr. President, I move that further consideration of SB 127 be indefinitely postponed. I do so because of the hike in the weekly benefit. This is a 37 percent increase and I don't think the cost of living has risen that high since the \$67 was initiated. This will only encourage people to not want to go to work. By the time taxes are taken out, the guy is better by staying at home.

Sen. MORRISSETTE: What will be the cost to the state?

Sen. LAMONTAGNE: It depends on how many people will be drawing on the fund. SB 127 and SB 140 were sent to Finance. They were vacated because labor and management had agreed on this present bill.

Sen. MORRISSETTE: Is it true that this will cost the state about \$330,000?

Sen. LAMONTAGNE: I don't know how you got that figure! Those figures do not exist. They are based on injuries. It is not unemployment but workmen's compensation which is concerned with insurance. The employer is insured and taken care of by the insurance company.

Sen. FERDINANDO: Is it not true that this would be the highest weekly compensation rate in the country?

Sen. LAMONTAGNE: Yes, senator. Your insurance companies will pay more.

Sen. FERDINANDO: Is it true that the premiums are determined by the amount of compensation that is gone out which in essence, your consumers up north are going to end up paying for this increase?

Sen. LAMONTAGNE: They will be paying into insurance premiums.

Sen. FERDINANDO: Is it true that during this Legislature, we have upped the unemployment compensation to a 25 percent increase and we are now discussing a 37 percent increase and if we keep going this way, is there any reason why anyone would want to work?

Sen. LAMONTAGNE: This increase has been agreed by both labor and management. Management is the one that is going to pay the bill and they have agreed to this.

Sen. SPANOS: Mr. President, I rise in opposition to Sen. Ferdinando's motion and I do so because I know that this is an agreed bill. There are two issues involved here whether or not management would accept the dependency provisions as labor wanted them for death benefits. There was a request by labor to have the insurance program pay not only the benefits that the employee would receive but also to pay additional sums of money to those he leaves behind. This dependency clause which labor wanted, management did not want. It was management who then turned around and suggested the increase from \$67 to \$92. It is management who is offering this part of the insurance plan. Since they are the ones who will pay the premiums, I see no problem. Incidentally, most people who are on workmen's compensation, in order to continue their benefits, have to have medical examinations and constantly be followed up by doctors in order to keep getting their compensation. Insurance companies constantly check on that fact. I assure you that if you have a man who doesn't want to go back to work, he isn't going to last for long because they will find him out.

Question on indefinite postponement.

Motion lost.

Question on adoption of amendment as offered by the Committee.

Amendment adopted. Ordered to third reading.

SB 188

relative to a compact between the State of Maine and New Hampshire to promote the better utilization of the Saco River Watershed and making an appropriation therefor. Ought to pass with amendment. Sen. R. Smith for Finance.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

relative to a compact between the states of Maine and New Hampshire to promote the better utilization of the Saco River Watershed.

Amend the bill by striking out sections 2 and 3 and inserting in place thereof the following:

2. Effective Date. This act shall take effect upon its passage.

Sen. S. SMITH: Mr. President, the amendment to SB 188 strikes out the appropriation. What the bill does is to establish a Saco River Valley Compact between New Hampshire and Maine. It will be at least a year before this will even begin to be effective.

Amendment adopted. Ordered to third reading.

SJR 35

establishing a commission to study the restructuring of the tax commission. Ought to pass with amendment. Sen. R. Smith for Finance.

AMENDMENT

Amend the resolution by striking out all after the resolving clause and inserting in place thereof the following:

That, a commission is hereby established to study the feasibility of restructuring the state tax commission. In the course of its study the commission shall determine the most efficient and economical management and administrative structure for implementing the collection and enforcement of existing state tax laws. Any department, or agency of the state, which the commission may require information or assistance from to carry out its duties, are directed to provide such information or assistance.

The commission shall consist of a membership of eight. The members shall include: (1) three from the house, appointed by the speaker; and (2) two from the senate, appointed by the president; and (3) one from the N. H. Municipal Association, as selected by said association; and (4) one from the N. H.

Assessors Association, as selected by said association; and (5) one from the N. H. Tax Collectors Association, as selected by said association.

The members of the commission shall serve without compensation. They shall report their findings, recommendations and any proposed legislation to the 1973 session of the general court, not later than the second week of said session.

Sen. S. SMITH: Mr. President, this is a resolution establishing a committee to study the Tax Commission. There are members of the House and Senate on this commission. There is no appropriation but the amendment strikes out one member of the commission who is from Legislative Services. It was felt that there is need to evaluate the structure of the Tax Commission and I hope that the Senate will concur with the Committee Report.

Amendment adopted. Ordered to third reading.

SJR 30

In favor of William J. O'Connor. Ought to pass with amendment. Sen. R. Smith for Finance.

AMENDMENT

Amend the resolution by striking out all after the resolving clause and inserting in place thereof the following:

That, notwithstanding any provision of law to the contrary, William J. O'Connor, food service director of the Rochester school system, be credited for retirement purposes with his service with the system between 1961 and 1968, upon payment by Mr. O'Connor and the city of Rochester, if its city council so approves, of whatever amounts are determined to be due as Mr. O'Connor's and the city's share for the purpose of this resolution. Provided that in no event shall the state be required to make any contribution to fund this additional service credit but that Mr. O'Connor may, if such contribution is needed, make payment of the amount which the state would otherwise be required to pay and until such payment, if any is required, is made by him the creditable service herein provided for shall not be allowed.

Sen. FOLEY: Mr. President, SJR 30 and SJR 31 are almost the same and they both have the exact same amendment.

It is permissive legislation concerning the retirement benefits of William J. O'Connor and Thayer Wade, both of whom work for the Rochester School System. It allows them to pick up past retirement benefits and it involves no money at all to the State of New Hampshire. The amendment simply reiterates that no state money will be used.

Amendment adopted. Ordered to third reading.

SJR 31

In favor of Thayer Wade. Ought to pass with amendment. Sen. R. Smith for Finance.

AMENDMENT

Amend the resolution by striking out all after the resolve clause and inserting in place thereof the following:

That, notwithstanding any provision of law to the contrary, Thayer Wade, the superintendent of schools in Rochester, be recredited for retirement purposes with his service with school systems in Bristol, Holderness and the Epping-Newmarket union between 1950 and 1961 and that he be credited with his service in school systems outside New Hampshire between 1961 and 1965 as if such service had been New Hampshire service, upon payment by Mr. Wade, and the city of Rochester, if its city council so approves, of whatever amounts are determined to be due as Mr. Wade's and the city's share for the purposes of this resolution. Provided that in no event shall the state be required to make any contribution to fund this additional service credit but that Mr. Wade may, if such contribution is needed, make payment of the amount which the state would otherwise be required to pay and until such payment, if any is required, is made by him the creditable service herein provided for shall not be allowed.

Amendment adopted. Ordered to third reading.

SB 308

relative to the workweek and overtime pay for the state police. Ought to pass with amendment. Sen. R. Smith for Finance.

AMENDMENT

Amend the bill by striking out all after section 1 and inserting in place thereof the following:

2 State Police Compensation. Amend RSA 99:2 by inserting after paragraph d the following new paragraph: e. The standard workweek for police employees in the division of state police shall be a basic forty hour week. To the annual salary of such police employees shall be added compensation equivalent to eight hours per week or four hundred sixteen hours per year. In addition, such police employees shall be compensated at their regular rate of pay for all hours of overtime worked in excess of four hundred sixteen hours per year and for the purpose of this paragraph an employee provided for herein shall be deemed to have worked not less than two hours of overtime whenever he is called out to duty for any purpose while on time off, furlough or vacation.

3 Effective Date. This act shall take effect sixty days after its passage.

Sen. S. SMITH: Mr. President, SB 308 changes the work hours and pay for state police. Under the existing law, the state police work a 5 day week, 9 hours each day for 45 hours a week. This reduces the week to a 40 hour week and also changes from 208 hours to 416 hours of overtime. Under the existing law, they are not paid for additional hours. This would allow them to be paid for the additional hours for which they work. Testimony is to the effect that state troopers do work many hours over the time allowed them to be paid. Under the existing law, the state police cannot give them compensatory time because of a shortage of personnel so that the police are therefore working without compensation for many hours. There is a similar bill dealing with Fish and Game conservation officers introduced into the House which passed.

The additional funds for this amount to approximately \$225,000 which comes from highway funds. There is an additional amount of approximately \$25,000 from the General Fund. The Committee gave this consideration and hopes the Senate will concur.

Amendment adopted. Ordered to third reading.

SB 318

establishing a water resources and water quality department and providing for waste disposal facilities. Refer to joint standing committee of Senate Resources and Environmental Control and House Environmental Quality and Agriculture

for further study and report to the next session of the Legislature. Sen. Porter for Resources and Environmental Control.

Sen. PORTER: Mr. President, this bill has a modest \$4.7 million budget and we didn't feel that the funds were available and that it could stand further research.

Resolution adopted.

SB 319

relative to the operation of boats and houseboats on public waters. Refer to joint standing committee of eSenate Resources and Environmental Control and House Resources, Recreation and Development for further study and report to the next session of the Legislature. Sen. Porter for Resources and Environmental Control.

Sen. PORTER: Mr. President, SB 319 was received only today. It is a very comprehensive bill but we didn't have time to read it thoroughly. It does seem as though it would have a great deal of merit so the Committee recommends that it be given further study.

Resolution adopted.

SJR 24

permitting the transfer of certain highway reserve funds to the use of cities and towns for road construction and repair. Inexpedient to legislate. Sen. Lamontagne for Public Works & Transportation.

Sen. POULSEN: Mr. President, SJR 24 states that it would have the state Treasurer direct \$12 million from the highway reserve fund to a special fund to be known as the local roads fund. The Committee has considered this bill and has voted it inexpedient to legislate. For one thing, there is no reserve fund in the Highway Department, consequently, we don't know how you could pull \$12 million out of it.

Sen. MORRISSETTE: Mr. President, I move that the words, "ought to pass" be substituted for the Committee Report, "inexpedient to legislate." I introduced this bill because I feel that our sense of proportion is completely out of whack. The cities and towns do not have the means of taxation to raise money to take care of their needs. The state has less roads to take care of than the cities and towns, but their budget is far greater. They say there are no surplus funds. Well, I don't know but I

have had a CPA budget that shows a fund that keeps going up every year. There is provision in the law that you could take money from the highway fund and give it to the cities and towns to help a critical situation.

Sen. MCCARTHY: Do you have any statistics concerning any cities as to the amount of revenue that comes out of there?

Sen. MORRISSETTE: Our cities and towns have far more roads to take care of and far less money to take care of them.

Question on substituting "ought to pass" for inexpedient to legislate.

Motion lost.

Resolution of Committee adopted.

CACR 34

Relating to: Appropriations for State Agencies. Providing That: A Two-Thirds Vote of Each House Shall be Required to Approve a Biennial Appropriation for any Agency which Exceeds by More than Ten Percent the Appropriation for the Preceding Biennium. Inexpedient to legislate. Sen. R. Smith for Finance.

Sen. S. SMITH: Mr. President, this amendment would curtail the power of future legislatures to appropriate funds. Priorities change and often drastically. Additional appropriations might be needed and to receive a two-thirds vote is sometimes difficult. This biennium, as a matter of practicality, we have a 10 percent education over the last biennium in the amount of funds available. How one would vote on a bill is not clear in this amendment. We are limiting in this amendment the increase in appropriations to any agency by 10 percent and yet, we are living in an age today where we see a 3 and 4 percent increase in the cost of living — an inflationary factor of 7 or 8 percent in a two year period would mean that the purchasing power might only be increased by 2 or 3 percent. What effect would this have on the adoption or acceptance of federal funds? With a requirement of two-thirds vote on increases above the 10 percent, we have minority rule. There is also or could be means of circumventing this amendment by administrative dispersion by the adoption of setting up new sub-agencies which could, under this, appropriate new funds or switch programs from the departments. I think that

what this amendment would do would be to limit the needs of the state at some future date. I hope that the Senate will vote "no" on the proposed amendment.

Sen. NIXON: Mr. President, I move that the words, "ought to pass" be substituted for the Committee Report, "inexpedient to legislate". If there is one fact that has been impressed upon me through talking with constituents, reading letters, etc., it is that the people are looking for their elected representatives to impose upon themselves and upon the government some reasonable limit to spending, some reasonable contradiction or opposition to Parkinson's Law in respect to spending which decrees, unfortunately, that spending will increase disproportionately with revenue raising. Every time this Legislature is faced with a recommendation to broaden or reform the revenue-raising system, we are met, time and again, with examples of other states, where increased taxes have resulted in tremendously increased spending.

The people are looking to the government to take a step in the direction of putting some reasonable limitation on spending. CACR 34, is an attempt to make spending a little harder — not impossible — by placing in the Constitution the provision that the biennial appropriation for any state agency or department will not exceed the biennial appropriation of the budgetary period by more than 10 percent unless two-thirds of the members of the House and Senate concur in a requested increase because of some special reason. The Senate Judiciary Committee had a hearing on this and voted that it ought to pass with amendment. The amendment would change the two-thirds requirement to three-fifths so that 60 percent of the members of the General Court could authorize a net appropriation of greater than 10 percent for the previous biennium. This in no way *unduly* limits the spending power of the House and Senate. It *does* limit, but, a more important fact, gives the people some assurance that we are *serious* when we talk about saving the taxpayers' dollar.

I have very strong doubts that the people of this state will tolerate the enactment of any general tax reform measures such as a broad based sales or income tax unless and until there is some assurance to them beforehand that it isn't immediately going to be followed by a wild spending spree. They are looking for some affirmative measure on the part of the Legis-

lature. I cannot conceive of a situation where the limitations set forth in this measure could be interpreted as hamstringing the operations of the state. I would like this measure to be given the full consideration that sending it over to the House would permit. I am sure that if amendments are necessary to make it more reasonable, it can be done there.

Sen. JACOBSON: Mr. President, I rise in support of the motion offered by Sen. Nixon. I think that if this amendment were to be adopted, it would have one salutary effect and that is that it would constrain the entire spending of some departments. Furthermore, I think it should be noted that after the proposed 10 percent increase, the budget would double in 7½ years — would triple in 12 years and would quadruple in 15 years from any given date. This means a rather significant increase in the budget within a 15 year period given the constraint of the 10 percent.

Sen. MORRISSETTE: Mr. President, I rise in support of the motion offered by Sen. Nixon. This is a good proposal that needs serious consideration. I hope that you will go along with this proposal to limit the spending that is occurring.

Sen. KOROMILAS: Mr. President, I rise in opposition to the pending motion. I think CACR 34 does seem extremely appealing on the surface. I think this Legislature today, can limit the expenditures on the state level without this CACR 34. We cannot say that each and every department must be restricted to 10 percent. Inflation is a part of our life and it wouldn't take too long to come up to the 10 percent in terms of inflation. I am not sure this amendment would restrict payment to the cities and towns by 10 percent. This CACR has to be studied.

Sen. S. SMITH: It seems to me that I saw an article in the paper the other day that the percentage increase of cost of New Hampshire State Government, over a 10 year period, we were the sixth lowest state in the amount of increase of cost to government. Would you think, therefore, that maybe we can keep our costs low without the addition of this amendment?

Sen. KOROMILAS: Yes. The Legislature, on majority vote, can limit our expenditures.

Sen. JACOBSON: You mentioned inflation. Is it not true that the federal government right now has legislative powers to put an end to inflation?

Sen. KOROMILAS: I think that is another appealing thought but I doubt very much that the government can put an end to inflation. I think it is here to stay.

Sen. JACOBSON: Was there inflation in the 1930's?

Sen. KOROMILAS: No. Deflation during the crash but that is not the solution.

Sen. NIXON: Sen. Koromilas, you stated that the Legislature has now and has had in the past effective ways and means of controlling increased expenditures. Can you tell me whether you think that has been accomplished?

Sen. KOROMILAS: Unfortunately, not.

Sen. NIXON: Were you aware, for instance, that the total net appropriation for the State of New Hampshire for the biennium 1970-71 was 24.62 percent over that of the previous biennium — for 1968-69, it was 27.12 percent over the previous biennium — for 1966-67, it was 33.41 percent over the previous biennium and for 1964-65, was 28.44 percent higher?

Sen. KOROMILAS: Yes, but what you have forgotten is that the revenue has been increasing and I think revenue comes before expenditures. So, what the Legislature has been doing is increasing revenue and why — so it can spend it.

Sen. NIXON: Do I understand you to say that there are *now* effective means to control spending?

Sen. KOROMILAS: Yes, the Legislature can control spending so long as you control the source of revenue. I agree that once you raise money, you spend it.

Sen. NIXON: Would it not then be helpful to have a guideline written in to the Constitution as to what the general limit should be unless circumstances require a larger increase?

Sen. KOROMILAS: I think that I would probably agree with your CACR if there was some kind of a control upon revenue raising. You have to raise the money first to spend it.

Sen. NIXON: Would you agree that the prospects for significant tax reform in this state are somewhat bleak unless the taxpayers can have some assurance that there will be a reasonable limitation on the amount of spending which might result?

Sen. KOROMILAS: I don't see the necessity of using this 10 percent in this amendment. The Legislature has the power now to cut down spending.

Sen. NIXON: You said that this subject is one that deserve serious study. Which eventuality is more likely to result if this study is to be effective — killing the bill now or allowing it to go to the House to be considered by the Committee there?

Sen. KOROMILAS: I am going to send it to Legislative Study Committee.

Sen. MORRISSETTE: Don't you feel it is difficult for some people who get a 6 to 7 percent increase a year to have to support a state that spends 20 or 24 percent?

Sen. KOROMILAS: 51 percent of both Houses can limit your spending every session.

Sen. LEONARD: Mr. President, Sen. Koromilas explained that CACR 34 is appealing on the surface. In my opinion, it is appealing under the surface as well. Everyone has a tendency to spend someone else's money more liberally than he spends his own. I think this is the tendency of the political bodies as well. This does not prevent a raise in the budget as merited. 10 percent in the House is 40 more votes and in the Senate, about 2.4 votes. I think if an increase is merited, it will get these extra votes. This does not put a brake on the budget. It just slows things down and makes it a little more difficult to spend money that we cannot afford to spend. The people are getting tired of this constant increase.

Sen. DOWNING: Mr. President, I move the previous question.

Adopted.

Question on substituting "ought to pass" for "inexpedient to legislate".

ROLL CALL

Roll call requested by Sen. Nixon. Seconded by Sen. Jacobson.

Yeas: Sen. Lamontagne, Jacobson, Nixon, Leonard, Morrisette, Marcotte, Downing, Foley.

Nays: Sens. Poulsen, S. Smith, Snell, Gardner, Spanos, Porter, R. Smith, McCarthy, Provost, Brown, Koromilas.

Result: 8 Yeas, 11 Nays.

Motion lost.

Sen. NIXON: Mr. President, I move that CACR 34 be referred to the Joint Senate and House Committee. I think this deserves further study. We are seeking a solution in the direction of controlling spending and this further study would lead in that direction.

Adopted. Referred to Joint Senate and House Judiciary Committee.

RECONSIDERATION

Sen. LEONARD: Mr. President, I move that the Senate reconsider its action whereby it ordered SB 127 to a third reading. After we voted SB 127 to third reading, I studied the amendment and noticed that there were two changes in our present law which were not explained by Sen. Lamontagne in that they did not appear in the summary sheet. The first one was section 5 which takes away the right of a wife to sue for loss of services of her husband if he is injured due to negligence by his employer. The second section that changes our basic law is Section 9 which takes away the provision that interest be paid at the rate of 6 percent after an award is given by the Labor Commissioner. This was put into the law last session on a bill which Sen. Nixon introduced.

Sen. LAMONTAGNE: Mr. President, I rise in opposition to the pending motion to reconsider. Section 5 bars the spouse's action to recover damages for personal injury against an employer as I stated in my report. You cannot have the cake and the frosting too. This is one section that labor gave into management on. This was agreed by labor and management as I said previously.

Sen. SPANOS: I rise in support of the motion to reconsider because these instances that Sen. Leonard pointed out did not come out in any of the testimony that I heard before the Senate Finance Committee. I was caught unaware and I don't like to be, therefore, I would like to support the motion to reconsider.

Sen. NIXON: I also rise in support of reconsideration. These rights were fought hard for and enacted into law two years ago and this would have taken away those rights to recover in common law. I would hope the Senate would vote to reconsider so that these amendments could be placed back into the law where they should be.

Sen. MORRISSETTE: Mr. President, I rise in opposition to the motion to reconsider. I feel that this is a most generous package. This can be amended later on instead of at this time in the morning. It can be amended in the House when more time can be given to it.

Sen. DOWNING: Mr. President, I rise in favor of the motion to reconsider.

Sen. KOROMILAS: Mr. President, I support the pending motion.

Sen. LAMONTAGNE: Mr. President, I rise in opposition to the pending motion. This is an agreed bill which took many months of work on the part of labor and management.

Sen. DOWNING: Mr. President, I move the previous question.

Adopted.

Question on reconsideration.

Adopted.

Sen. LEONARD: Mr. President, I move the following amendment.

AMENDMENT

Amend the bill by deleting sections 5 and 9 thereof:

Amend the bill by renumbering section 6 to section 5, section 7 to section 6, section 8 to section 7, section 10 to section 8, section 11 to section 9, section 12 to section 10, section 13 to section 11, section 14 to section 12, section 15 to section 13, section 16 to section 14, and section 17 to section 15.

Sen. LEONARD: Mr. President, the amendment deletes the two sections, 5 and 9 which change the basic law that is on the books today. One being the right of a woman to sue for loss of the services of her husband who is injured at work

due to negligence of the employer and the 6 percent interest per year after the award has been made by the Labor Commissioner.

Amendment adopted. Ordered to third reading.

SUSPENSION OF THE RULES

Sen. PROVOST: Mr. President, I move that the rules of the Senate be so far suspended as to dispense with two days' notice of hearing, the holding of hearing and notice of report on the following bills and resolutions: SB 305, SB 316, SJR 28 and SB 281.

Adopted.

COMMITTEE REPORTS CONTINUED

SB 305

establishing a miscellaneous tax division within the tax commission. Ought to pass. Sen. R. Smith for Finance.

Sen. R. SMITH: Mr. President, SB 305 is an administrative change within the Tax Commission and I am sure you all understand it well since it passed through these Chambers just a few hours ago. There is no appropriation.

Sen. BROWN: Mr. President, this is the same bill which was explained earlier.

Adopted. Ordered to third reading.

SB 316

relative to the sweepstakes commission. Ought to pass. Roger A. Smith for Finance.

Sen. LAMONTAGNE: Mr. President, I move the following amendment to include the local clubs to sell these sweepstakes tickets. The Director of the Sweepstakes Commission called and this meets with his approval 100 percent.

AMENDMENT

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Increasing Authorized Sales Outlets, and Establishing a Maximum Commission for the Sale of Tickets. Amend RSA 284:21-h, II, (d) (supp) as amended by striking out said sub-

paragraph and inserting in place thereof the following: (d) May be sold by or for the sweepstakes commission in the following locations: Such hotels, motels, business and industrial establishments, local fairs, private clubs and mobile units, as are approved by the commission, provided, however, that all sales from mobile units shall be only by employees of the commission. Sales at all the above locations shall be subject to rules and regulations established by the commission, and provided, however, that the voters of the cities or towns in which the respective sales outlets are located have signified their approval of the sale of sweepstakes tickets in said cities or towns pursuant to the provisions of RSA 284:21-k at the biennial election of November, 1966 and so signify biennially thereafter. Tickets may be sold only in such of these locations as desire to cooperate. The commission shall pay for the sale of tickets a sum not to exceed five percent at state liquor stores and private outlets. This percentage will apply for all tickets sold for the commission.

Amendment adopted. Ordered to third reading.

SJR 28

establishing a committee to study the feasibility of off track betting and making an appropriation therefor. Ought to pass with amendment. Sen. R. Smith for Finance.

AMENDMENT

Amend the resolution by striking out the last two sentences thereof and inserting in place thereof the following:

The sum of two thousand dollars is hereby appropriated for the biennium ending June 30, 1973 for the purposes of this act. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

Sen. SPANOS: Mr. President, SJR 28 originally carried a \$5,000 appropriation but the Finance Committee cut it down to \$2,000. I accepted it. It creates a committee to study off track betting. It is made up of 10 people. Three appointed by the President, three by the Speaker, three by the Governor and one who shall be a member of the Racing Commission.

Amendment adopted. Ordered to third reading.

SB 281

increasing the salary of the director of fish and game Ought to pass. Sen. Tufts for Recreation & Development.

Sen. PORTER: Mr. President, the Committee had a hearing and it was explained that the Director of Fish and Game was out of line with the salaries of other gentlemen of connected responsibilities and we moved it ought to pass and urge your adoption.

Sen. KOROMILAS: Mr. President, this bill increased the salary of Director of Fish and Game from \$15,246 to \$17,229 to the range of \$19,032 to \$20,935. I think, under the rules, it should go to Finance.

Referred to Finance.

ANNOUNCEMENTS

Sen. JACOBSON: Mr. President, I move that SJR 18, establishing a commission to study the feasibility of a three-year high school curriculum and making an appropriation therefor, be discharged from the Finance Committee. This was a small bill relating to the establishment of a committee to study high school curriculum. It had the approval of the Education Committee. I asked the Finance Committee to stop the \$5,000 appropriation.

Division taken; Result: 8 Yeas. 11 Nays.

Motion lost.

Sen. JACOBSON: Mr. President, I move that SB 314, relative to the dissemination of information about voluntary sterilization and requiring state financial assistance in certain cases of voluntary sterilization, be discharged from the Finance Committee.

Motion lost.

Sen. KOROMILAS: Mr. President, I move that SB 192, relative to the policemen's retirement system, be discharged from the Finance Committee.

Motion lost.

PERSONAL PRIVILEGE

Sen. JACOBSON: Mr. President, the action of the Finance Committee in refusing to bring these bills out with some sort of

action is contrary to every principle I believe in in terms of legislative practice. In my Committee, we brought out every solitary bill. The only time I believe a bill should be kept in Committee is when the sponsor requests it and in general there is agreement to doing this. I said to the Finance Committee with respect to three bills that they could take any action they wanted to. In this instance, we had voted them to pass. In the instance of the voluntary sterilization, we even had a roll call of 13 to 6 in favor. I submit to you that this is extremely poor practice and not in the public interest.

Sen. SNELL: Mr. President, I would like to go on record in support of Sen. Jacobson's speech.

PERSONAL PRIVILEGE

Sen. LAMONTAGNE: Mr. President, I, too, voted against taking these bills out of Finance Committee. It has been my experience in all my years in this Chamber that once you discharge one bill from a Committee, you have to do it in all the other committees. This is one of the reasons for my vote. One of my bills is also in Finance but I realize the reason why — we don't have an inexhaustable fund.

PERSONAL PRIVILEGE

Sen. MORRISSETTE: Mr. President, I rise in support of Sen. Jacobson. I know how it feels to have a bill lay dead in Committee after all the work that went into it.

PERSONAL PRIVILEGE

Sen. KOROMILAS: Mr. President, in my opinion, each and every committee should act in the same fashion. The committees that I have served on this session and in previous sessions have always brought out all their bills unless the sponsor specifically requests otherwise. What is good for the goose is good for the gander. I have a great deal of admiration for the Finance Committee but I think they should have brought the bills out.

PERSONAL PRIVILEGE

Sen. LEONARD: Mr. President, I agree that all bills should come out of committee, especially when members ask that they be taken from the committee. I think the Finance Committee has a right to keep a bill if there is money involved and I understand that some of these bills have no money or the sponsor requested that the appropriation should be taken from the bill. I don't think the Committee should keep a bill that does not call for an appropriation.

PERSONAL PRIVILEGE

Sen. R. SMITH: Mr. President, today has been a difficult day for the Finance Committee. We held hearings on 12 bills this morning. We heard testimony on the budget bill yesterday for many, many hours. After our 12 hearings this morning, we must have picked up an additional dozen or so bills through the action of this Chamber today. We had a lot to consider. If apologies are to be made, I shall apologize to the Chamber for any credit that is reflected upon the Committee, the Committee gets. Any blame that is placed upon the Committee, the Chairman will get. It is difficult to consider bills under the conditions which have existed today. I think that the Committee Chairmen were cautioned or warned at least three weeks ago that if they had bills which would go to Finance, please get them out so we would have time to consider them properly. I think that instead of individuals being completely at fault here, perhaps the system shares part of the blame too.

Sen. Spanos moved that the Senate do now adjourn from the Early Session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today, it be until Tuesday at 1 o'clock.

Adopted.

LATE SESSION

Third reading & final passage

Sen. Spanos moved that the following listed bills and resolutions be hereby each read a third time, bills by their titles only and resolutions by their captions only, and that each of said listed bills and resolutions be hereby passed.

SB 249, to establish trustee powers of building and loan associations, cooperative banks or savings and loan associations.

SB 206, relative to investments by banks.

SJR 22, in favor of Steven W. Rollins.

HCR 12, relating to the study of election laws.

SB 148, to require voting on each office.

SB 277, relative to disqualification of certain officials in the city of Manchester for employment by the city.

SB 120, to require public hearings prior to the vote on bond or note issues of certain municipalities and providing procedures for bonds in excess of one hundred thousand dollars.

SB 189, establishing obligations of the New Hampshire Higher Educational and Health Facilities Authority as "legal investments".

SB 285, authorizing the Human Rights Commission to accept public and private grants.

SB 170, relative to disposal by auction sale of certain surplus municipal property.

SJR 29, relative to reimbursement to the Wentworth School District for freedom age to the Wentworth Elementary School.

SB 100, relative to repair of damage to bridges in Thornton and Woodstock.

SB 234, providing for consumer product warranty protection.

SJR 26, providing for a special legislative committee to study the methods by which a public defender system can be implemented in the state.

SJR 27, providing for a special legislative committee to study the feasibility of establishing a non-adversary juvenile and domestic relations court in the state.

SB 220, relative to the licensure and regulation of the practice of opticianry.

SB 217, relative to the establishment of an electric power plant and major transmission siting and construction licensing procedure.

SB 278, providing that, with the approval of one parent, persons who have attained the age of eighteen years will be fully competent to contract relative to motor vehicles.

SB 242, regulating the drilling of water wells and requiring a licensed driller.

SB 296, to permit use of streets for conducting street fairs, including retail selling on temporary basis.

SB 297, requiring certain markings and equipment on bicycles.

SB 292, relative to abandoned and junk motor vehicles.

SB 138, providing for the designation of scenic roads and relative to town road aid.

SB 289, relative to timber cutting adjacent to public waters.

SB 136, relative to the taxation of farm, forest, wet and wild land.

SB 177, relative to special motor vehicle registration numbers and the driver education fund.

SB 291, repealing the bounty on bobcats.

SJR 34, establishing a commission to study the New Hampshire Retirement System.

SB 273, to reduce automobile insurance premiums for good drivers.

SB 309, authorizing an increased penalty for the violation of city by-laws.

SB 307, establishing a division of real and personal property appraisals within the tax commission.

SB 315, relative to continuing the office space study committee.

SJR 32, extending to June 30, 1973 the lapsing of the 1969 appropriation to provide state flags to servicemen.

SB 37, relative to the hours of employment for female laboratory technicians.

SB 306, relative to institutional collections.

SB 106, relating to filing notices under the timber conservation act and requiring an owner to furnish security for payment of the yield tax.

SB 243, relative to group life insurance plans.

SB 225, restricting the use of amphetamine-type drugs.

SB 313, to protect the Appalachian National Scenic Trail within the State of New Hampshire.

SB 279, relating to registration and operation of motorized golf carts.

SB 312, regulating the powers of the New Hampshire American Revolution Bicentennial Commission.

SB 247, relative to public notice and hearing requirements for city zoning.

SB 245, establishing an arbitration commission to handle zoning disputes in the City of Manchester.

SB 317, to repeal charters of certain corporations.

SB 287, providing a unified court system for New Hampshire.

SB 188, relative to a compact between the states of Maine and New Hampshire to promote the better utilization of the Saco River Watershed.

SJR 35, establishing a commission to study the restructuring of the Tax Commission.

SJR 30, in favor of William J. O'Connor.

SJR 31, in favor of Thayer Wade.

SB 308, relative to the workweek and overtime pay for the state police.

SB 127, to improve the administration of and increasing benefits under the workmen's compensation law.

SB 305, establishing a miscellaneous tax division within the Tax Commission.

SB 316, relative to the Sweepstakes Commission.

SJR 28, establishing a committee to study the feasibility of off track betting and making an appropriation therefor.

SB 250, to eliminate unfair insurance practices. (Passed under Suspension)

SB 254, prohibiting candidates for office, other than election officials, from being present within the rail of a polling place. (Passed under Suspension)

SJR 25, providing that a referendum to determine the sense of the voters on the Vietnam War be placed on the presidential preference primary ballot. (Passed under Suspension)

Motion adopted.

Sen. Porter moved the Senate adjourn at 5:27 a.m.

Adopted.

Tuesday
15Jun71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Guest Chaplain, Pastor Vondel Allen of the Community Baptist Church, Gorham, New Hampshire.

Dear God and heavenly Father, we are bowed in Thy Presence, not on any merits of our own, but humbly in the name of Your only begotten Son, Jesus Christ.

We are seeking Your face this day, to confess our need of Your direction in our lives. Might we realize anew and afresh today, Your divine guidance. We learn from Your precious Word that You “. . . open, and none shall shut; and . . . shut, and none shall open.”

Truly, in You, we have a great God, who is over all, to Whom we are all accountable both in our private and public lives. Thus, Lord, as these Senators seek to do business for the benefit and welfare of the people, as ministers of the government, which You have intrusted into their care, might all selfishness and desire for fame, an area in which they could easily be tempted, be put aside, in order that Your perfect Will be done today in these chambers.

Father, give these dear Senators, discernment, patience, understanding, vision, strength and wisdom during this day and the climatic days ahead. May they turn to You for direction and meaning in their lives, realizing, Father that You sent Jesus Christ, Your Son, to die and shed His precious blood, that they might have eternal life and not only that, but an abundant and God filled life.

Might today Father, these Senators come to realize as never before Thy great Might, Strength, and Power in their midst as they labor together in Your Stead for the people of this great State of New Hampshire.

These things we ask in the name of the Lord Jesus Christ. Amen.

Submitted and delivered in Christ's Name.

Pledge of Allegiance was led by Sen. Downing.

HOUSE NON-CONCURRENCE

SB 143, clarifying and making co-equal the terms, shares and deposits and shareholders and depositors under chapter 393 regulating building and loan associations.

ENROLLED BILLS REPORT

HB 106, to clarify the definition of subdivision.

HB 275, authorizing towns to make by-laws relating to hazardous pits.

HB 392, establishing an interim committee to study the problems of lowering the age of majority from twenty-one to eighteen years of age.

HB 468, clarifying the provisions of the statute that tax deeds shall be given by the collector in office.

HB 548, relative to the use of the state seal.

HB 591, relative to organized time trials for motor vehicles on certain public highways.

HB 622, relative to regional sewage disposal plants.

HB 624, banning propeller air driven boats from the waters of New Hampshire.

HB 661, revising the application of the implied consent law.

HB 703, relative to use of clam, oyster, lobster and crab licenses and relative to taking of red crabs.

HB 733, relative to operating snow traveling vehicles in the vicinity of ice fishermen.

HB 805, relative to the color of highway yield signs.

HB 819, setting minimum speed limits on certain highways.

HB 830, naming Loon Mountain Road.

HB 887, relative to the expiration date of hunting and fishing licenses issued to military personnel and others.

HB 913, including paraplegics in the group of veterans not paying a fee for registration of their motor vehicles.

HB 914, including paraplegics in the group of veterans not paying a fee for a license to operate a motor vehicle.

HB 922, providing for special licenses plates for motor vehicles of blind veterans.

HB 931, providing for special licenses plates for motor vehicles of paraplegics and amputees.

HJR 54, making a supplemental appropriation for the racing commission.

SB 96, relative to the interest on deposits in credit unions.

SB 123, relative to enabling local municipalities to appropriate funds for assistance to the aged.

SB 130, relative to expert witness fees in superior court cases.

SB 146, authorizing the prosecution to take depositions of certain witnesses in criminal cases.

SB 147, relative to the voluntary retirement of supreme and superior court justices.

SB 180, relative to the inclusion of certain pupils from partially closed nonpublic schools in the computation of state aid due school districts.

SB 185, increasing the exemptions from attachment and execution of certain property.

SB 187, relative to service of process against foreign corporations.

Sen. Ferdinando
For The Committee

HOUSE MESSAGES

INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 193, establishing the New Hampshire turnpike system. (Public Works and Transportation)

HB 212, relative to lapse time on appropriations. (Finance)

HB 228, relative to excavating, filling, mining and construction in the inland waters of the state, establishing an inland wetlands authority and making an appropriation therefor. (Resources and Environmental Control)

HB 294, providing for the establishment of public refuse disposal facilities under certain conditions. (Resources and Environmental Control)

HB 337, establishing a committee to study and report on the goals, purposes, organization and financing of the state university system. (Education)

HB 342, to establish a police standards and training council and to provide educational and training requirements for members of police forces and making an appropriation therefor. (Finance)

HB 367, providing additional retirement allowances for certain retired teachers and making an appropriation therefor. (Finance)

HB 409, increasing the additional retirement allowances for state employees who retired prior to July 1, 1961 and making an appropriation therefor. (Finance)

HB 410, providing additional retirement allowances for state police who retired subsequent to July 1, 1961 and prior to January 1, 1968 and making an appropriation therefor. (Finance)

HB 427, providing for and increasing the additional retirement allowances for state police who retired prior to July 1, 1961 and making an appropriation therefor. (Finance)

HB 431, providing additional cost of living retirement allowances for state employees who retired subsequent to July 1, 1961 and prior to January 1, 1968 and making an appropriation therefor. (Finance)

HB 559, relative to the sale of sweepstakes tickets. (Finance)

HB 631, providing that a portion of hunting license revenue shall be used for stocking small game. (Recreation and Development)

HB 635, to promote competent ambulance service and making an appropriation therefor. (Finance)

HB 645, relative to the practice of veterinary medicine in New Hampshire (Public Health, Welfare and State Institutions)

HB 647, to provide additional retirement allowances to certain retired members of the policemen's retirement system. (Finance)

HB 662, relative to extending the jurisdiction of local police by consent. (Judiciary)

HB 668, extending the tenure of the special board to determine matters relating to state resources. (Resources and Environmental Control)

HB 712, relative to the traffic safety fund. (Finance)

HB 756, to increase highway relocation assistance. (Public Works and Transportation)

HB 770, to improve eminent domain procedure and making an appropriation therefor. (Public Works and Transportation)

HB 776, relative to the duties of the Mount Washington commission. (Resources and Environmental Control)

HB 906, regulating prearranged funerals or burial plans, compensating the state board of registration of funeral directors and embalmers and regulating the exposing of corpses. (Public Health, Welfare and State Institutions)

HB 942, establishing the city of Goffstown. (Executive Departments, Municipal and County Governments)

HB 983, relative to notice of hearing by zoning board of adjustment. (Executive Departments, Municipal and County Governments)

HB 990, relative to the application of the minimum wage laws to certain employe'es of restaurants, hotels and similar businesses. (Ways & Means and Administrative Affairs)

HB 1002, relative to tax exempt corporations which manage the funds and investments of nonprofit organizations. (Judiciary)

CACR 22, Relating to: Taxation of Corporations, Providing that: Corporations are subject to taxation. (Judiciary)

VACATE COMMITTEE

Sen. PORTER: Mr. President, I move that the order whereby HB 7 was referred to the Committee on Resources and Environmental Control be vacated and the bill referred to the Committee on Ways & Means and Administrative Affairs.

Adopted.

Sen. JACOBSON: Mr. President, I move that the order whereby HB 574, HB 942 and HB 953 was referred to the Committee on Executive Departments, Municipal & County Governments be vacated and the bills referred to the Committee on Resources and Development.

Adopted.

Sen. SNELL: Mr. President, I move that the order whereby HB 965 was referred to the Committee on Judiciary be vacated and the bill referred to the Committee on Public Health, Welfare and State Institutions.

Adopted.

Sen. LAMONTAGNE: Mr. President, I would like to correct an error on SB 196 which was reported inexpedient by the Public Works and Transportation Committee. The House has scheduled a hearing on this SB 196 and if this is not corrected, I want to serve Notice of Reconsideration.

CHAIR: This is an error in the House Calendar. The Senate Record remains correct that SB 196 was killed last Thursday. The House is now aware of the error and it will be corrected.

COMMITTEE OF CONFERENCE REPORT

The committee of conference to which was referred House Bill No. 220, 'An Act authorizing the state of New Hampshire to acquire the Contoocook Village Dam in the Town of Hopkinton' having considered the same report the same with the following recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and

That the Senate recede from its position in adopting its amendment, and

That the Senate and House each adopt the following amendment to the bill.

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

authorizing the water resources board to acquire the following dams: Contoocook Village, Pine River Pond, Nubanusit Brook, Sunrise Lake, March Pond, and Downing Pond; enacting a tax to fund dam maintenance and repair; and making appropriations from said fund.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 New Chapters. Amend RSA by inserting after chapter 482-E the following new chapters:

Chapter 482-F

Acquisition of a Certain Dam and Water Rights

482-F:1 Acquisition Authorized. For a consideration of one dollar the New Hampshire water resources board is hereby authorized to accept conveyance from the owners thereof the Contoocook village dam, so-called, on the Contoocook river in the town of Hopkinton in Merrimack county, and the water rights, land and other facilities connected therewith for the purpose of improving and controlling certain water rights for the benefit of the state. The grantor will provide a suitable public access to the impoundment above the dam if none exists.

482-F:2 Tax Exemption. The properties hereby authorized to be acquired by the water resources board for the benefit of the state shall be exempt from taxation as long as said properties are held by the state. Until the water resources board makes necessary repairs and/or modifications to the dam, the grantor will operate said dam under the supervision of the water resources board.

Chapter 482-G

Acquisition of a Certain Dam and Water Rights and Naming Said Dam the Arthur H. Fox Memorial Dam

482-G:1 Acquisition Authorized. For a consideration of one dollar the New Hampshire water resources board is authorized to accept conveyance from the owner of the following described property for the purpose of improving and controlling certain water rights for the benefits of the state: Dam on Pine River Pond in the town of Wakefield, water rights, land, and other facilities connected therewith.

482-G-2 Arthur H. Fox Memorial Dam. The water resources board is directed to name said dam the Arthur H. Fox Memorial Dam. Said board shall place a suitable plaque at the dam with such detail as said board deems proper. The grantor will convey approximately two acres having approximately four hundred feet of frontage for public access on said pond.

482-G:3 Repairs, etc. Said board after said acquisition shall from time to time make repairs and modifications to said dam so acquired or rebuild as the case may be so as to best serve the interests of the state. Until a self-operating spillway is constructed, the grantor shall operate the dam at their own expense under the supervision of the water resources board.

482-G:4 Tax Exemption. The properties authorized to be acquired by the water resources board for the benefit of the state shall be exempt from taxation as long as said properties are held by the state.

Chapter 482-H

Acquisition of a Certain Dam and Water Rights

482-H:1 Acquisition Authorized. For a consideration of one dollar, the New Hampshire water resources board is hereby authorized to accept conveyance from the Lake Skatutakee As-

sociation for the purpose of improving and controlling certain water rights for the benefit of the state including the dam on Nabanusit Brook in the town of Harrisville, water rights, land and other facilities connected therewith. The grantor will provide a suitable public access to the impoundment above the dam if none exists.

482-H:2 Repairs, etc. The board after acquisition, shall from time to time make repairs and modifications to the dam so acquired or rebuild it as the case may be, to serve the best interests of the state. Until the water resources board makes necessary repairs and/or modifications to the dam, the grantor will operate said dam under the supervision of the water resources board.

482-H:3 Tax Exemption. The properties hereby authorized to be acquired by the water resources board for the benefit of the state shall be exempt from taxation as long as said properties are held by the state.

Chapter 482-I

Acquisition of a Certain Dam and Water Rights

482-I:1 Acquisition Authorized. For a consideration of one dollar the New Hampshire water resources board is hereby authorized to accept conveyance from the owners thereof the following described property for the purpose of improving and controlling certain water rights for the benefit of the state: the Sunrise Lake Dam, so-called, on the Sunrise Lake in the town of Middleton in Strafford county, and the water rights, land, and other facilities connected therewith. The grantor will provide a suitable public access to the impoundment above the dam if none exists.

482-I:2 Repairs, etc. Said board after said acquisition shall from time to time make repairs and modifications to said dam so acquired or rebuild as the case may be so as to best serve the interests of the state. Provided, that until the water resources board makes necessary repairs and/or modifications to the dam, the grantor will operate said dam under the supervision of the water resources board.

482-I:3 Tax Exemption. The properties hereby authorized to be acquired by the water resources board for the benefit of the state shall be exempt from taxation as long as said properties are held by the state.

Chapter 482-J

Acquisition of a Certain Dam and Water Rights

482-J:1 Acquisition Authorized. For a consideration of one dollar the New Hampshire water resources board is hereby authorized to accept conveyance from the town of New Durham the following described property for the purpose of improving and controlling certain water rights for the benefit of the state: Dam, water rights, and lands connected therewith known as the March Pond Dam on the Hays Brook and Cocheco River. The grantor will provide a suitable public access to the impoundment above the dam if none exists.

482-J:2 Repairs and Improvements. After the acquisition the board may make repairs and modifications, or it may rebuild the dam so acquired, so as to best serve the interests of the state. Until the water resources board makes necessary repairs and/or modifications to the dam, the grantor will operate said dam under the supervision of the water resources board.

482-J:3 Tax Exemption. The properties hereby authorized to be acquired by the water resources board for the benefit of the state shall be exempt from taxation so long as said properties are held by the state.

Chapter 482-K

Acquisition of a Certain Dam and Water Rights

482-K:1 Acquisition Authorized. For a consideration of one dollar the New Hampshire water resources board is hereby authorized to accept conveyance from the town of New Durham the following described property for the purpose of improving and controlling certain water rights for the benefit of the state: Dam, water rights, and lands connected therewith known as the Downing Pond Dam on the Merrymeeting River in the town of New Durham. The grantor will provide a suitable public access to the impoundment above the dam if none exists.

482-K:2 Repairs and Improvements. After the acquisition the board may make repairs and modifications, or it may rebuild the dam so acquired, so as to best serve the interests of the state. Until the water resources board makes necessary repairs and/or modifications to the dam, the grantor will operate said dam under the supervision of the water resources board.

482-K:3 Tax Exemption. The properties hereby authorized to be acquired by the water resources board for the benefit of the state shall be exempt from taxation so long as said properties are held by the state.

Chapter 482-L

Funding of Dam Maintenance Fund by Local Assessment

482-L:1 Declaration of Intent. In order for the state to insure to owners of property on state-operated bodies of water the continued enjoyment of a stable water level, maintain the real estate value of said property and to protect the recreational interest of owners of property on other artificially created water bodies whose water level control facilities are in a state of disrepair or abandonment, it is the intent of this chapter to establish a policy to acquire in the name of the state those structures which will serve a public benefit by such state operation and maintenance and to provide funding for the repair, maintenance and operation of the same.

482-L:2 Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following words and phrases shall have the following meanings:

I. "State operated body of water" shall mean a body of water on which the state owns and operates, or has control of the operation of, a dam which controls the water level of said body of water; but excluding any body of water which is a public water supply, a reservoir whose primary operation is adverse to recreational development and use, or on which the dam is for flood control purposes only.

II. "Shoreline" shall mean the water mark of any state-operated body of water when the water level is at crest elevation at the dam impounding said body of water.

482-L:3 Certification of Shorelines. On or before the second Monday of January of each year, commencing in 1972, the water resources board shall certify to the state treasurer the lineal footage of shoreline, if any, in each city, town, and unincorporated or unorganized place.

482-L:4 Measurement of Shorelines. For the purposes of RSA 482-L:3 the lineal footage of shorelines shall be determined by the water resources board from available map scale, tax inventory records, or direct measurement.

482-L:5 Tax on Shorelines. The state treasurer shall, on or before February first of each year, commencing in the year 1972, issue his warrant, to the assessing officials of each city, town, and unincorporated or unorganized place in which the water resources board has certified to him that there are lineal footages of shoreline, in an amount for each such place which is the product of the number of lineal footage of shoreline in said place multiplied by five cents, which sum shall be assessed by said officials in the next succeeding tax year in accordance with RSA 76:5.

482-L:6 Time of Payment to State Treasurer. Each city, town and unincorporated or unorganized place shall pay to the state treasurer on or before July first of each year the sum for which he has issued his warrant to said place.

482-L:7 Disposition of Payments. The state treasurer shall deposit all moneys received pursuant to RSA 482-E:4 in the special fund established by RSA 270:5, VII.

2 Appropriation and Order of Priority. There is hereby appropriated from the special fund established by RSA 270:5, VII the funds found needed by the water resources board, subject to the approval of the governor and council, to repair or rebuild the dams acquired by the state pursuant to RSA 482-F, 482-G, 482-H, 482-I, 482-J, and 482-K provided that said appropriated funds shall be expended for repair or rebuilding on said dams in the order that the chapters of RSA relative to each are herein listed and none of said funds shall be expended on the next listed until the work on the previous listed has been completed.

3 Appropriation to Establish a Dam Maintenance Division. There is hereby appropriated to the water resources board for the fiscal year ending June 30, 1973 the sum of one hundred and eleven thousand nine hundred and ninety dollars from the special fund established by RSA 270:5, VII to be expended by said board as follows:

Personal Services Permanent
CEIV
Engr, Tech. II
Acct. Steno. II
Constr. Supt.
Carpenter Sub-Foreman
Carpenter II

2 Carpenters I	
Motor Equipment Operator	
Total	\$63,303
Equipment	30,007
Travel	6,680
Current Expenses	12,000
	<hr/>
	\$111,990

4 Effective Date. This act shall take effect upon its passage.

Rep. Raymond
 Rep. Parker
 Rep. Huot
 Conferees on the part of the House

Sen. Poulsen
 Sen. Lamontagne
 Conferees on the part of the Senate

Sen. POULSEN: Mr. President, This bill is the compilation of several requests for the state to take over lands owned by towns. Instead of having each one be a great problem as far as the financial end of it was concerned, these towns will all fit into one package. The method was evolved where the state would tax the towns on the basis of the impoundment of state controlled dams. This does not apply to any water reservoir type dam or flood control dam. It is only on lakes impounded by state controlled dams. Any such body of water will be taxed at the rate of 5 cents a foot. The town would pay the state that amount to maintain these dams and the towns would assess the property owners on the same basis. We urge that this agreed on Committee of Conference Report should meet the approval of the Senate.

Adopted.

Sen. POULSEN moved the Senate adopt the Committee of Conference Report.

Adopted.

ENROLLED BILLS AMENDMENT

HB 798, requiring notice of junking of motor vehicles.

AMENDMENT

Amend the bill by striking out in section 1 lines eight and nine and inserting in place thereof the following:
ably requires to be mailed or delivered to the director for cancellation. A certificate of title of the vehicle shall not again be issued without

Amendment adopted.

HB 636, to expand the authority of water supply and pollution control commission relative to safety regulations for recreational camps and public swimming pools.

AMENDMENT

Amend section 2 of the bill by striking out the first line and inserting in place thereof the following:

2 Repeal. RSA 125:33 to 36, inclusive, relative to recreation camps, is hereby repealed.

Amendment adopted.

SB 163, prohibiting dumping materials from out-of-state.

AMENDMENT

Amend RSA 147:30-h as inserted by section 2 of the bill by striking out the first line and inserting in place thereof the following:

147:30-h Penalty. Whoever shall violate this subdivision shall be punished by

Amendment adopted.

HB 458, prohibiting the use of motorboats on Berry Pond in Moultonborough.

AMENDMENT

Amend the bill by striking out in section 1 lines one and two and inserting in place thereof the following:

1 Motorboats Prohibited. Amend RSA 486 by inserting after section 11 (supp) the following new section: 486:12 Berry Pond. No person shall use or operate

Amendment adopted.

RECESS

COMMITTEE REPORTS

HB 582

regulating outdoor advertising on the interstate, federal aid systems, and turnpikes. Ought to pass. Sen. Poulsen for Public Works & Transportation.

Sen. POULSEN: Mr. President, HB 582 was amended in the House to comply with federal regulations on advertising along our highways. It also includes some legislation on secondary roads — all in the form of billboards. There was no one in opposition to the bill except one or two people who represented motel owners who seem to be affected by the stipulation that signs weren't allowed off the property except in industrial-zoned areas.

There is need for haste in the bill. If New Hampshire votes this out now in compliance with the federal end of the legislation, the state is qualified to receive \$196,000 which they would very much like to have. I see no objection whatsoever to the bill and we recommend its passage.

Adopted. Ordered to third reading.

SPECIAL ORDER OF BUSINESS AT 1:01

The Chair called for the Special Order.

HB 613

relative to the terms of members of the air pollution control agency; expanding the powers of the agency and establishing a permit system for the control of air pollution. (Req. by Sen. Porter)

COMMITTEE REPORT

HB 613

relative to the terms of members of the air pollution control agency; expanding the powers of the agency and establishing a permit system for the control of air pollution. Sen. Foley for Resources & Environmental Control.

Sen. PORTER: Mr. President, HB 613, introduced by Rep. Greene, had a Joint Hearing. The original bill called for a permit system, however, it was subsequently amended and the reference to the permit system was deleted as far as cost. The majority of the bill, better than 95 percent of it, deals with bringing New Hampshire into line with federal policy on the

Clean Air Act. All the various statutes have been thoroughly reviewed in conjunction with the Attorney General's Office. The Committee urges your adoption. There was no opposition to the bill.

RECESS

Sen. KOROMILAS: Mr. President, I move adoption of the following amendment.

AMENDMENT

Amend the bill by striking out RSA 125:81, XIII as inserted by section 2 of the bill.

Further amend RSA 125:81, XIV and XV as inserted by section 2 of the bill by renumbering said paragraphs to read XIII and XIV, respectively.

Sen. KOROMILAS: Mr. President, the amendment merely strikes out two sections. I think we all know that perhaps one of the greatest polluters is the automobile. The automobile emits certain gases that are injurious to the human race, vegetation, animals and what have you. This bill brings the state into conformity with the Clean Air Act but in a very important aspect, this bill adds a section that says that the Air Control Commission cannot do anything with respect to the poisonous gases coming out of the tail pipe. The federal law says that the car manufacturer must do something after 1975. What subsection XIII does is to not allow the commission in New Hampshire to make a condition precedent.

The State of California has passed a law that would require the automobile manufacturers to come up with a tail pipe that would cut down on the pollution. If this amendment is not passed, we say we will wait until the whole country moves in 1975. I submit that as long as we give the automobile industry time to continue to evade the issue, they will do very little. I think it should be left up to the Commission to decide when New Hampshire should require a good tail pipe. The evidence is very clear that 70 percent or more of our air pollution stems from the emission of gases from the gasoline combustion engine. If we remove this particular section, this state can move ahead of the federal deadline of 1975. I don't think anyone has any problem with the rest of the bill. The major aspect of our

air pollution problem is completely neglected by the bill itself and all my amendment does is to give the Air Control Commission the right to say that no car comes into the State of New Hampshire unless something is done with respect to the emission of gases.

Sen. ENGLISH: There are certain cars on the road which are referred to as oil burners. Are there sufficient laws on the books to prevent someone from operating in this capacity?

Sen. KOROMILAS: I don't believe so.

Sen. ENGLISH: Should there be?

Sen. KOROMILAS: Yes, there should.

Sen. ENGLISH: This is not related to modern automobiles — it is related to people who put in cheap oil?

Sen. KOROMILAS: Yes, that is exactly what I am saying. This bill does not cover the real problem of the automobile.

Sen. FERDINANDO: Who comprises this commission?

Sen. KOROMILAS: It is made up of the following people: there are nine members — one representative from the steam power generating industry, one representing the fuel industry, one representing the manufacturing industry, one from municipal government, one from recreation, one licensed practicing physician and three appointed at large.

Sen. NIXON: I am concerned that if we pass this in New Hampshire are manufacturers going to be making 50 different types of exhausts?

Sen. KOROMILAS: We are not saying that manufacturers must meet our standards before 1975. What we are doing is giving the Air Pollution Control Commission the discretion, after they have studied the situation, to require a better means by 1975. The setting up of standards would be up to the Commission.

Sen. MORRISETTE: I would hope we would do something now about this problem. Our lakes are becoming polluted as our rivers. We must do something about the automobile.

Amendment adopted. Ordered to third reading.

NOTICE OF RECONSIDERATION

Sen. MCCARTHY: I would like to serve notice of reconsideration on CACR 34.

PERSONAL PRIVILEGE

Sen. POULSEN: I would like to read into the record one paragraph of a letter which I received from the Franconia Notch State Park Chapter No. 43 of the State Employees Association:

"It was agreed by vote that Franconia Notch State Park employees would not engage or participate in any mass protest at Concord. We did agree however that inasmuch as we do have practically 100% membership in the State Employees Association we should give token support to the Rally."

ANNOUNCEMENT

The Chair would call to the attention of the members of the Senate that we are in possession of approximately 275 house bills. The Joint Rules require that every house bill receive final action by the Senate not later than June 24; the one exception to that is any bill in the possession of a Committee of Conference. If we meet on our usual Wednesday and Thursday of this week plus Friday and then Monday, Tuesday, Wednesday and Thursday next week, it means we must take action on 40 bills per day. That is a good work load. I would further caution Committee Chairmen that if there is a bill in your possession that will have to go to Finance, get it out early. The Finance Committee has a great deal of work to do and if they are to give it valued judgment, they need time. It would be hoped that every bill that has money in it would be turned over to the Committee on Finance not later than Friday of this week. I would simply like to reemphasize the number is 275 and that is a lot of work!

If any Committee can hold an executive session this afternoon and get bills to us so that we can get them into the Calendar tomorrow we can start moving.

Sen. JACOBSON moved the Senate do now adjourn from the early session and that on third reading, all bills be read by title only and that when the Senate adjourns today it be until tomorrow at 1 o'clock.

LATE SESSION

Third reading & final passage

HB 582, regulating outdoor advertising on the interstate, federal aid systems, and turnpikes.

HB 613, relative to the terms of members of the air pollution control agency; expanding the powers of the agency and establishing a permit system for the control of air pollution.

Adopted.

Sen. LAMONTAGNE moved the Senate adjourn at 2:15 p.m.

Adopted.

Wednesday

16Jun71

The Senate met at 1 o'clock.

A quorum was present.

Prayer was offered by Guest Chaplain, Rev. T. Willard Hunter of the Union Congregational Church, Madbury, New Hampshire.

O God of ages, maker and breaker of mighty nations, we come before you this afternoon in the humble knowledge that all our human wisdom has thus far failed to stem the tide of the destruction and decay we see all around us. Pour into our souls the concrete of character that will help make us more nearly adequate to the assignment has been handed to us.

We pray that towering conflicts within our state may be healed. We pray for Walter Peterson. We pray for William Loeb. We pray for teamwork. We would that New Hampshire might be not only first in the nation with a presidential primary election but also first as a pattern of reconciliation that might launch a wave of national unity throughout our country.

Give us wisdom and insight above and beyond our poor powers in the decisions we must make in this room this day, and give us not only our daily bread but also the peace that passes all understanding, both at home and abroad, starting with ourselves.

We pray today not only for our state leadership but for our national leadership as well. We pray especially for your servants Richard Nixon, Henry Kissinger, and all those who have the awe-ful decisions to make affecting peace and war. Uphold them

in their fearful moments. Reprove them when tempted with lesser motives. Encourage them to follow your ways. And give us all a just peace at last, in Jesus' name. Amen.

Pledge of Allegiance was led by Sen. Poulsen.

HOUSE CONCURRENCE

SB 91, naming a certain mountain in the town of Odell, Muise Mountain.

SB 178, authorizing the liquor commission to extend certain provisions relative to liquor licenses.

SB 191, relative to abandoned boats.

SB 210, enlarging the conditions under which federal or state aid projects may be pre-financed and extending the term of borrowing for the same to five years.

SJR 20, in favor of Mrs. Ann Morrell.

HOUSE RECONSIDERATION OF REQUEST FOR COMMITTEE OF CONFERENCE

HB 6, relative to the power of Hesser College to grant degrees.

HB 43, relative to the power of White Pines College to grant degrees.

HB 99, relative to the power of McIntosh College, Inc. to grant degrees.

HOUSE NON-CONCURRENCE TO SENATE AMENDMENTS

HB 6, relative to the power of Hesser College to grant degrees.

HB 43, relative to the power of White Pines College to grant degrees.

HB 99, relative to the power of McIntosh College, Inc. to grant degrees.

HOUSE CONCURRENCE TO SENATE AMENDMENTS

HB 613, relative to the terms of members of the air pollution control agency; expanding the powers of the agency establishing a permit system for the control of air pollution.

HCR 12, relative to a study of election laws.

RECESS

HOUSE MESSAGE

COMMITTEE OF CONFERENCE

The House has voted to accede to the request of the Senate for a Committee of Conference on:

CACR 18, Relating to: the limitation of payment of mileage to legislators. Providing that: Legislators may be paid mileage for regular sessions for no more than sixty days in any one year and for not more than ninety days in any biennium.

The Speaker appointed as members of said Committee on the part of the House, Reps. R. Chase, Harvell and Sylvain.

SENATE CONCURRENCE TO HOUSE AMENDMENT

SB 174, relative to education for all handicapped children.

Sen. English moved concurrence.

Adopted.

HOUSE NON-CONCURRENCE ON COMMITTEE OF
CONFERENCE REPORT

HB 220, authorizing the state of New Hampshire to acquire the Contoocook Village Dam in the town of Hopkinton.

REQUEST FOR COMMITTEE OF CONFERENCE

On Motion of Sen. Poulsen, the Senate voted to accede to the House request for a new Committee of Conference on:

HB 220, authorizing the state of New Hampshire to acquire the Contoocook Village Dam in the town of Hopkinton.

The Speaker appointed as members of said Committee on the part of the House, Reps. Raymond, Claflin and Huot.

The President appointed as members of said Committee on the the part of the Senate, Sens. Poulsen and Lamontagne.

SENATE CONCURRENCE TO HOUSE AMENDMENT

SB 113, to increase the penalties for driving while intoxicated or under the influence of drugs.

Sen. Nixon moved concurrence.

Adopted.

VACATE COMMITTEES

Sen. POULSEN: Mr. President, I move that the order whereby HB 770, to improve eminent domain and making an appropriation therefor, was referred to the Committee on Public Works & Transportation be vacated and the bill referred to the Committee on Judiciary.

Adopted.

Sen. PORTER: Mr. President, I move that the order whereby HB 294, providing for the establishment of public refuse disposal facilities under certain conditions, was referred to the Committee on Resources and Environmental Control be vacated and the bill referred to the Committee on Public Health, Welfare and State Institutions.

Adopted.

COMMITTEE REPORTS

HB 48

permitting the reapportionment of cooperative school boards to provide for equal representation. Ought to pass. Sen. English for Education.

Sen. JACOBSON: Mr. President, HB 48 results from a series of Supreme Court decisions which relate to the one man, one vote principle. Two of these, one of which is the Middle School Decision which involved a school district in the State of Texas and the other which is the Havley Decision which involved a public junior college. The Supreme Court ruled in both cases that the one man, one vote principle is applicable to school districts.

This bill relates to cooperative school boards. As you will remember, one of the principles of cooperative school districts is that the pre-existing school districts, as they come together, will have representation. The problem has arisen that the towns or pre-existing districts do not have equal population and what HB 48 does is to provide a mechanism whereby pre-existing school districts will be represented but will also conform to the Middle School and the Havley Decision. HB 48 provides options with respect to electing persons to a coopera-

tive school board. All members of the school board will be elected at large regardless of pre-existing districts. The effort to preserve some semblance of the pre-existing school districts is also provided so that representation will be distributed over the entire school district. All members of the district will vote on these individuals. One further option is that they will be divided into equal districts.

This is the intent of the bill in order to conform to the one man, one vote principle.

Adopted. Ordered to third reading.

HB 71

relative to authority of the Coordinating Board of Advanced Education and Accreditation. Ought to pass with amendment. Sen. English for Education.

AMENDMENT

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Coordinating Board. Amend RSA 186:13-a (supp) as inserted by 1963, 303:16 and amended by 1967, 288:1, and 1969, 214:1 by striking out said section and inserting in place thereof the following: 186:13-a Coordinating Board of Advanced Education and Accreditation. A coordinating board of advanced education and accreditation of eleven members shall be established with the following membership: The commissioner of education, president of the university of New Hampshire, president of Keene state college, president of Plymouth state college, chairman of the state board of education or his delegated representative, ex officio, one member of the senate appointed by the president, one member of the house of representative appointed by the speaker, and four members to be appointed by the governor with the consent of the council, three of these four appointed members may be educators selected from the private institutions of higher learning of New Hampshire. Appointive members of this board shall be appointed for five years each. Vacancies shall be filled for unexpired terms only. The chairman of the coordinating board of advanced education and accreditation shall be a president of either the university of New Hampshire, Plymouth state college, or Keene state college. The board is hereby authorized to employ such staff as may be necessary to carry on its work, within the limits of its

appropriation. The members of the board, except the ex officio members and any committee of evaluation established by them, shall serve without compensation but may be reimbursed for actual travel and other expenses incurred in the performance of their duties hereunder. The function of the board is to work in an advisory capacity only toward coordinating the activities of higher education in the state including approval of graduate or undergraduate courses offered by community colleges and work with the New Hampshire members of the New England Board of Higher Education insofar as possible. The board shall evaluate institutions of higher learning wishing to grant degrees or issue diplomas, and make appropriate recommendation to the legislature, except for those exempted in RSA 292:8-h. The procedure and criteria for evaluation will be established by the board. Within five years after an institution in the state of New Hampshire, except for those exempted in RSA 292:8-h, received authority to grant degrees or issue diplomas or within five years after the effective date of this act for those receiving such authority prior to the establishment of the board, and thereafter at least once every ten years, it shall be evaluated by the board. On the basis of such evaluation, the board shall classify said institution into such category as will indicate its status as to approval and/or accreditation. The procedure and criteria for classification will be established by the board. The board may accept as a basis for classification, in lieu of evaluation by the board, accreditation by a recognized regional or national accrediting association.

2 Educational Institutions. Amend RSA 292:8-h, as inserted by 1965, 44:1 by striking out said section and inserting in place thereof the following: 292:8-h Granting of Degrees. No educational institution within this state shall grant degrees unless authorized by an act of the legislature to do so. Provided that this limitation shall not apply to any institution now granting degrees which has been in continuous operation since 1775 or to publicly supported institutions placed by the legislature under the authority of the State Board of Education. The authority granted by the legislature shall specify the highest level of degrees, the associate (two-year), baccalaureate (four-year) or graduate, an institution may grant. Within that authority the legislature shall determine what specific degrees an institution may grant. Should an institution propose a substantive change in the degrees it grants, prior approval shall be obtained from

the legislature. An institution authorized to grant baccalaureate or graduate degrees shall have the authority to give customary honorary recognition to outstanding individuals for noteworthy achievement. Should an institution legally change its name but make no substantive change in its structure or operation, the degree granting authority shall pass, if approved by the legislature, to the newly named institution.

3 Community Colleges. Amend RSA 292-A:4 I (supp) as inserted by 1961 155:1 and amended by 1967 296:1 by striking out said paragraph and inserting in place thereof the following: I. A community college may grant academic degrees with specific approval of the legislature upon recommendation of the coordinating board of advanced education and accreditation. Prior to approval of the power to grant degrees certain individual courses offered by community colleges shall be designated as of equal grade with like courses offered by an accredited college or university. If such course is submitted to the coordinating board for such designation the board shall act forthwith on the application. If it finds that said course is taught by a qualified instructor, that the subject matter is at either a graduate or undergraduate college level and that sufficient library and laboratory facilities for the particular course are available it shall so designate it and recommend to all institutions in the state that the course so designated shall receive the same consideration for transfer of graduate or undergraduate credit as is given to a course taken at any established college or university authorized to grant degrees and that the state board of education accept this course as meeting the certification requirements of this state. Each course presented for approval in each semester shall be evaluated in accordance with the approval standards and must be re-evaluated each time the course is given for graduate or undergraduate credit.

4 Effective Date. This act shall take effect upon its passage, provided that the present chairman of the coordinating board of advanced education and accreditation shall serve out his current term and provided that the first vacancy shall be filled by a Senator and the second vacancy shall be filled by a Representative.

Sen. ENGLISH: Mr. President, HB 71 has to do with the powers of the Coordinating Board of Higher Education.

When this House Bill reached the Senate it was checked

into by a member of the Senate research staff. The checking was prompted because a considerable number of House members reported to members of the Senate that the bill as passed by the House was inadequately explained. Some of them added that the House had been hoodwinked.

Be that as it may, the result of the research study did indeed indicate that this Bill, sponsored by the Coordinating Board, very substantially increased their powers and correspondingly diminished the authority of the Legislature with regard to higher education.

The *new* role of the Coordinating Board as provided by the Bill as it passed the House is to work "towards developing the planning and coordination of higher education within the State, and with other states through the New England Board of Higher Education and other appropriate agencies." Under the *existing law* the duty of the Board was to *advise* the Legislature with respect to certain aspects of higher education. Quite a difference — "developing the planning and coordination of higher education" in place of "only advising" the Legislature.

Also eliminated from the existing law by HB 71 was one of the two functions originally assigned to the Coordinating Board by the 1963 statutes. This was the approval for exchange credit of certain courses that met high standards which were developed by community colleges.

At the public hearing on HB 71, the principal representative of the Coordinating Board stated, "this no more than adopts the language of the Governor's Task Force." This sounds pretty good but what does it mean? On the floor of the House the Chairman of the House Education Committee said the bill "does not add to their powers in one degree or another." The HOUSE REPORTS of February 10th described it as follows: "the bill is a clarification of the authority and procedures of the Coordinating Board."

"Clarification" is a nice sounding word; it covers up neatly the bid for increase in power possible by the Board becoming a planning body and only incidentally advisory. That is why the explanation to the House caused such a reaction after HB 71 passed.

However, one new feature is provided by the Senate amend-

ment now before you. A member of the Senate designated by the President and a member of the House designated by the Speaker of the House shall henceforth serve on this eleven man board. The Senate amendment continues the advisory power of the Coordinating Board over higher education in New Hampshire exactly as it is in the existing statutes.

By supporting this amendment you will be heading off a bid for greater power by a group set up to advise the Legislature. The amendment returns the Board to the role of advisors to the Legislature with respect to higher education.

Amendment adopted. Ordered to third reading.

HB 497

relative to additional votes for supervisory union personnel based on ratio of student population. Inexpedient to legislate. Sen. Tufts for Education.

Sen. DOWNING: Mr. President, I move that HB 497 be laid on the table.

Adopted. HB 497 laid on the table.

SUSPENSION OF RULES

Sen. ENGLISH: I move that the rules of the Senate be so far suspended as to dispense with notice of hearing and holding of public hearing on HB 592.

Adopted.

HB 592

relative to New Hampshire Technical Institute and Vocational-Technical colleges bookstore operation. Ought to pass. Sen. English for Education.

Sen. ENGLISH: Mr. President, HB 592 reached the Senate without amendment and provides the Commissioner of Education may purchase merchandise for resale in book stores at the technical institutes and vocational-technical colleges. The books shall be instructional books and supplies only.

Adopted. Referred to Finance.

HB 711

relative to certain administrative procedures within the Department of Education, school boards and schools. Ought to pass with amendment. Sen. Jacobson for Education.

AMENDMENT

Amend Section 1 of the bill by striking out the same and inserting in place thereof the following:

1 School Administration. Amend RSA 189:24 as amended by 1959, 133:3 by striking out said section and inserting in place thereof the following: 189:24 Standard School. A standard school is one maintained for at least one hundred eighty days in each year, in a suitable and sanitary building, equipped with approved furniture, books, maps and other necessary appliances, taught by teachers, directed and supervised by principal and superintendent, each of whom shall hold valid educational credentials issued by the state board of education, with suitable provision for the care of the health and physical welfare of all pupils.

Sen. JACOBSON: Mr. President, HB 711 deals with establishing certain procedures, particularly with regards to valid educational credentials for teachers. In one section, it establishes a standard school which is unchanged with 180 days and then says that all who teach are to be directed and supervised by administrators in the original bill. The amendment takes out the word, "administrator" and puts in "principal and superintendent". The reason for this is that "administrator" is an open-ended phrase. The second section has to do with who shall be employed as a school teacher in New Hampshire. What this chapter does is to say that only those who hold valid educational credentials issued by the State Board of Education can be teachers. The remaining deals with forms of certification, conferences and representation with regards to the suspension of pupils.

Amendment adopted. Ordered to third reading.

SUSPENSION OF RULES

Sen. ENGLISH: Mr. President, I move that the rules of the Senate be so far suspended as to dispense with the notice of public hearing and hearing on HB 892 and HB 898.

Adopted.

HB 892

providing for an annual salary for members of the Nashua Board of Education. Ought to pass. Sen. English for Education.

Sen. ENGLISH: HB 892 provides that the Board of Edu-

cation shall choose their officers, and each member of the board be compensated at \$500 annually and shall not hold any other city office. This is a charter amendment and must go to the citizens for referendum. It has been approved by the Nashua Delegation in the House and the members in the Senate from Nashua have seen it and have posed no objection.

Adopted. Ordered to third reading.

HB 898

to reduce the terms of office of members of the membership of the Nashua Board of Education. Ought to pass. Sen. English for Education.

Sen. ENGLISH: Mr. President, HB 898 also concerns the Nashua Board of Education and fixes the number of members and the manner in which they shall be elected. This too, must go for referendum being a charter change.

Adopted. Ordered to third reading.

TAKEN FROM THE TABLE

Sen. DOWNING: Mr. President, I move that HB 497 be taken from the table.

Adopted.

HB 497

relative to additional votes for supervisory union personnel based on ratio of student population. Inexpedient to legislate. Sen. Tufts for Education.

Sen. TUFTS: Mr. President, I have in my hand two sheets of facts. The first one indicates that a problem would be raised by this measure. For example, in the town in which I reside, the town pays approximately 67 or 69 percent of the supervisory union budget. Under the new formula which was proposed, the receiving town would have 8 votes and the sending town would have 18 votes so it appeared to me that the overmounting costs would be out-weighed by the smaller percentage and it would be an occasion of the tail wagging the dog and it didn't seem quite fair. A more equitable formula should be worked out. The Committee decides there was merit in this report as inexpedient at this time.

Resolution adopted.

HB 936

providing that cooperative school districts may elect district officers at the time and places for the election of town officers in the towns which comprise the district. Ought to pass. Sen. Jacobson for Education.

Sen. JACOBSON: Mr. President, a few weeks ago, we passed SB 230 relating to the election of cooperative school district members to be held in a respective town rather than at the school district meeting because of the problems of multiple checklists and a variety of other problems. A similar bill was introduced in the House and that bill was amended to provide specifically for a separate ballot at town meetings. I went to the Municipal and County Governments Committee in the House and said if this HB 936 passes the Senate, then 230 would be inexpedient. We have already acted on SB 230 so I am hoping the Senate will confirm that action by voting HB 936 ought to pass.

Adopted. Ordered to third reading.

SUSPENSION OF RULES

Sen. ENGLISH: Mr. President, I move that the rules of the Senate be so far suspended as to dispense with the notice of and holding of public hearing on HB 956.

Adopted.

HB 956

changing the date for the regular meetings of the board of the Union School District in Concord. Ought to pass. Sen. English for Education.

Sen. ENGLISH: Mr. President, HB 956 provides certain rules with connection with the meetings of the board of the Union School District in Concord. The changes provided in this bill take effect only when adopted by majority vote at a regular school board election.

Adopted. Ordered to third reading.

HB 961

relative to supervisory union number seven. Ought to pass. Sen. English for Education.

Sen. ENGLISH: Mr. President, HB 961 provides that supervisory union number seven consisting of the school districts

of Colebrook, Clarksville, Columbia, Pittsburg and Stewartstown are authorized to contract with the Canaan-Vermont supervisory union with regard to supplying certain school supervisory services subject to the approval of the state board of education.

Adopted. Ordered to third reading.

SUSPENSION OF RULES

Sen. ENGLISH: Mr. President, I move that the rules of the Senate be so far suspended as to dispense with the notice of and holding of public hearing in regards to HB 992.

Adopted.

HB 992

relative to regulation of private schools. Ought to pass with amendment. Sen. English for Education.

AMENDMENT

Amend section 3 of the bill by striking out the same and inserting in place thereof the following new sections:

3 Three Business Days. Amend RSA 361-B:2, I, 1 (supp) as inserted by 1969 437:1 by striking out said paragraph and inserting in place thereof the following: 1. You are entitled to cancel this agreement before midnight of the third (3rd) business day after the date of signature on this agreement by sending a written notice of cancellation to the seller, by certified mail, return receipt requested. (For the purposes of this paragraph Saturday, Sunday and holidays shall not be considered a business day.) The address to which notice of cancellation is to be made is

4. Effect of Noncompliance. Amend RSA 361-B:2, II (supp) as inserted by 1969, 437:1 by striking out said paragraph and inserting in place thereof the following: II. In the event that the seller does not comply with paragraph I the buyer shall have until midnight of the third (3rd) business day following the time of compliance by the seller to cancel this sale. (For the purpose of this paragraph Saturday, Sunday and holidays shall not be considered a business day.)

5 Effective Date. Section 1 of this act shall take effect upon its passage. The remaining sections shall take effect January 1, 1972.

Sen. ENGLISH: Mr. President, HB 992 is an amended bill which provides for the licensing of commercial, correspondence, trade or other schools to register and obtain a license from the state board of education. The amendment has to do with the cancellation of the agreement between the student and the institution. Two words subsequently have been added since this morning. Sunday and holidays.

Amendment adopted. Ordered to third reading.

HB 186

relating to an Interstate Boundary Commission for the marine boundary between New Hampshire and Maine. Ought to pass. Sen. Koromilas for Judiciary.

Sen. NIXON: Mr. President, HB 186 would provide for the appointment by the Governor and Council of a commission consisting of three people from New Hampshire who would get together with a similarly appointed commission from Maine for the purposes of reaching tentative, preliminary agreement as to straightening out the offshore boundary lines between Maine and New Hampshire, which now goes in a zig-zag fashion and causes trouble to fishermen and so forth. The Commission would report back to this Legislature and to the Maine Legislature for adoption of a statute which would make the boundary line leading off the shore into the ocean a straight line. The Committee was unanimous in its recommendation that it ought to pass. There is an appropriation of \$7,500.

Sen. PORTER: Does the same problem exist in connection with the boundary line along Canada?

Sen. NIXON: To my knowledge, there is no relation. This particular bill relates only to the *marine* boundary — the offshore boundary.

Adopted. Referred to Finance.

HB 586

making it unlawful to operate a motor vehicle while in possession of a controlled drug. Ought to pass. Sen. Nixon for Judiciary.

Sen. NIXON: Mr. President, HB 586, as amended by the House, makes a crime, by way of a misdemeanor, for anyone to operate in any way a motor vehicle while knowingly having in his possession in any part of the vehicle a controlled drug. He

is to be fined not more than \$500, license to be revoked for 60 days or at the discretion of the court, for a period of not to exceed two years. The Committee felt that this is in line with tightening up the laws with respect to the possession and transportation of drugs. It is in the interest of the public and the Committee recommends it ought to pass unanimously.

Adopted. Ordered to third reading.

HB 664

providing procedural amendments to the search warrant statute. Ought to pass. Sen. Leonard for Judiciary.

Sen. NIXON: Mr. President, HB 664 was sponsored at the request of the Judicial Council. It would clarify the law with respect to search warrants and provide that the search warrant, upon issuance, would be returnable to any district or municipal court. This bill would be greatly to the convenience of the law enforcement authorities in that when they obtained a search warrant, they could name the court that it would be returnable to in the warrant, thus it would not have to come back to the court which originated the warrant and could go to the court in the area where the search was conducted. It is thought to be in the interest of better law enforcement and the Committee recommends it ought to pass.

Adopted. Ordered to third reading.

HB 312

enacting the fair credit reporting act. Ought to pass. Sen. Nixon for Judiciary.

Sen. NIXON: Mr. President, HB 312 has to do with enacting in New Hampshire the so-called fair credit reporting act. Generally, the principle involved is that of giving due notice or adequate opportunity to correct errors in the record to any person who is the subject of a credit report. Sen. Morrissette had an amendment that he wanted offered to the bill but the Committee's concern was not that they were opposed to the amendment but that the action taken by the Senate should be consistent with the federal law already pertaining to inter-state fair credit reporting. The amendment from the House was consistent with federal standards. Sen. Morrissette has requested that this be made a Special Order so that he can check that particular point and provided that action be taken on this bill

within the deadlines applicable, we have no objection to the Special Order.

The CHAIR would state that there is a contingent liability in the bill and if this bill is completed on second reading, it will go to Finance where an amendment might be considered.

Sen. MORRISSETTE: Mr. President, the reason why I want to make this a Special Order for Monday, June 21 at 1:01 is that I feel a serious mistake is being made in that I have checked this bill with an attorney. I support this bill but there is a serious error in it that does not conform with the federal law. I have conclusive evidence including the reports of the hearing in Congress where it very specifically states that your businesses and corporations are not classified as consumer. The net effect of including them as consumers would result in serious damage to the system of credit reporting and would hurt the consumer. The small business would be hurt. If we act in haste, we will regret it.

Sen. DOWNING: Since this will be referred to Finance, could you not take up your amendment with that Committee?

Sen. MORRISSETTE: As long as the bill will come back from Finance, I have no objection.

Referred to Finance.

HB 489

relative to the sentence for murder and the proceedings to determine the sentence. Ought to pass with amendment. Sen. Leonard for Judiciary.

AMENDMENT

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 When Death Sentence Can Be Imposed. Amend RSA 585:4 by striking out said section and inserting in place thereof the following new section:

585:4 Sentence for Murder.

I. A person convicted of murder in the first degree, following trial or plea, shall be sentenced to death or to a term of imprisonment that may be for any period up to the rest of his life.

Upon such conviction, the court shall conduct a proceeding pursuant to paragraphs II, III, and IV in order to determine whether sentence of death or of imprisonment shall be imposed.

II. Proceedings to determine sentence for murder in the first degree shall be before a jury, either the jury that found the defendant guilty or a new jury empanelled for that purpose when there has been no jury trial; provided, however, that the court may, for good cause, discharge the trial jury and empanel another.

III. In such sentencing proceedings, the evidence may be presented by either party on any matter relevant to sentence including, but not limited to, the nature and circumstances of the crime, defendant's background and history, and any aggravating or mitigating circumstances. Any relevant evidence shall be received regardless of its admissibility under the exclusionary rules of evidence.

IV. If the jury report agreement on the imposition of the penalty of death, the court shall discharge the jury and shall impose the sentence of death. If the jury report agreement on the imposition of the sentence of imprisonment, the court shall discharge the jury and shall impose a sentence of imprisonment. If, after the lapse of such time as the court deems reasonable, the jury report themselves unable to agree, the court shall discharge the jury and shall, in its discretion, either empanel a new jury to determine the sentence or impose sentence of imprisonment.

V. A person convicted of murder in the second degree, following trial or plea, shall be sentenced by the court to a term of imprisonment that may be for any period up to the rest of his life.

2 Pleas to Lesser Offenses. Amend RSA 585:6 by striking out said section and inserting in place thereof the following new section:

585:6 Plea, Less Offense. If a person indicted for murder shall plead guilty to any offense less than murder in the first degree, the court shall impose sentence according to law, provided such plea shall be accepted by the court.

Further amend the bill by renumbering sections 2 and 3 thereof as sections 3 and 4, respectively.

Sen. LEONARD: Mr. President, HB 489 is concerned with first degree murder rather than second degree murder on a capital basis. This would mean that there would have to be a special jury panel drawn, each individual juror would be questioned by the court and by the defense counsel and prosecution. It is a very expensive proceeding. You will notice that in many of the murder cases in past years, the charge is second degree murder even though there is a chance of charging first degree but it is such a complicated and expensive way to try a case. This amendment changes this procedure so that second degree murder is now considered *not* a capitol case and the extra jury panel and the long, tiresome method of collecting a jury is not required. It also provides whereby a person charged of second degree murder may plead guilty if he is sentenced by the court. Under the original bill, he would have to be sentenced by a specially drawn jury.

Amendment adopted. Ordered to third reading.

HB 451

establishing a commission to study and make legislative recommendations concerning the regulations and licensing requirements which apply to halfway houses. Ought to pass. Sen. McCarthy for Public Health, Welfare and State Institutions.

Sen. SNELL: Mr. President, in reference to HB 451, it was pointed out at the hearing that at the present time, we do not have a definition of a halfway house — we have no requirements or regulations as far as licensing. The commission will have 15 members and they will be selected from various groups in the state — one appointed by the President, one from the Governor and so on. It was in the best interest of the state that this commission should be established to set up and look into the problems of halfway houses.

Adopted. Ordered to third reading.

HB 843

authorizing emergency licenses in emergency situations for nursing home administrators. Ought to pass with amendment. Sen. Snell for Public Health, Welfare and State Institutions.

AMENDMENT

Amend the title of the bill by striking out the same and inserting in place thereof the following:

AN ACT

authorizing temporary emergency permits in emergency situations for nursing home administrators.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Temporary Emergency Permit Authorized. Amend RSA 151-A:7, II (supp) as inserted by 1969, 459:1 by inserting at the end thereof the following new paragraph: (c) Under emergency conditions the secretary of the board in his discretion subject to the confirmation of the board may issue a temporary emergency permit to a person of good character and suitability to act in the capacity of an administrator under the supervision of a licensed administrator pending action by the board until the next examination or not to exceed six months. Services performed pursuant to a temporary emergency permit shall not, however, be credited toward the requirement for licensing as may be specified by the board.

2 Effective Date. This act shall take effect sixty days after its passage.

Sen. SNELL. Mr. President, HB 843 was called to our attention because at the present time, when the nursing home administrators who either die because of natural death or accidents, it is difficult to appoint someone to take their position because at the present time, they are licensed by the state. This is a temporary emergency piece of legislation to give them a permit (not a license) until the proper commission can work with the board to issue a license.

Amendment adopted. Ordered to third reading.

HB 270

providing a penalty for failure to comply with requirements for construction and inspection of public buildings. Inexpedient to legislate. Sen. Poulsen for Public Works and Transportation.

Sen. POULSEN: Mr. President, HB 270 was amended in the House. It establishes the penalties for towns that do not comply with the requirements of safety building codes. It would set up a building inspector system in towns and we move that it be made inexpedient to legislate.

Resolution adopted.

HB 672

requiring the disclosure of gasoline octane rating. Refer to Legislative Study Committee. Sen. Poulsen for Public Works and Transportation.

Sen. POULSEN: Mr. President, the octane rating which is commonly used has to do with low speed motor power. It has little to do with modern automatic transmission cars but more aptly pertains to standard transmissions at speeds going around corners. The motor rate octane rating does affect this but is not included in the bill. At the same time, the bill does go in this direction. To further complicate things, the Federal Trade Commission put off until September 1 their ruling on publishing octane rating so we moved that this bill be sent to the study committee.

Resolution adopted.

HB 779

establishing rules of the road for the operation of bicycles. Inexpedient to legislate. Covered by other legislation. Sen. Townsend for Public Works and Transportation.

Sen. TOWNSEND: Mr. President, HB 779 is a bill that establishes rules and regulations for the operation of bicycles on the highway. The Committee felt that the bill needed more study and consideration than time permitted. The Senate passed a bill last week which provides safety requirements for bicycles and we feel that with further study and refinement, rules of the road should be adopted. I hope the Senate will support the report as inexpedient to legislate.

Resolution adopted.

HB 800

providing for annual physical examinations for school bus operators. Ought to pass with amendment. Sen. Downing for Public Works and Transportation.

Amend the bill by striking out section 2 and inserting in place thereof the following.

2 Effective Date. This act shall take effect July 1, 1973.

Sen. DOWNING: Mr. President, the amendment merely changes the effective date to July 1, 1973. The purpose of this was to give contractors obliged to pay for this physical examina-

tion, which is estimated at \$10 apiece, the time to budget the money.

Sen. LAMONTAGNE: Mr. President, I rise in opposition to the proposed amendment. Today, we have people who are driving buses who are retired. Some have a disability and a physical examination should be done on them. Postponing this until 1973 could mean a serious situation that could endanger the children during those pending months! It will not hurt the companies, school districts or towns. I know of some bus drivers who would be found unqualified to operate this vehicle.

Sen. DOWNING: Are you aware that the school districts now make a requirement relative to the qualifications of their drivers?

Sen. LAMONTAGNE: I am aware of this but I know of some who would not require it.

Sen. DOWNING: Are you aware that bus drivers have to be approved by the Department of Safety to handle a vehicle and so forth?

Sen. LAMONTAGNE: Yes, I am very well aware of that, but not for a physical examination.

Sen. DOWNING: Do you know of any incidents in the last year that resulted from a physical disability that the children have met with harm?

Sen. LAMONTAGNE: I know of a woman driving a bus at this moment who shouldn't be driving and if she has to take an examination, she will be disqualified from driving.

Sen. LEONARD: Mr. President, I rise to support Sen. Lamontagne's position. A physical will also check their eyesight and their hearing.

Question on adoption of amendment as offered by the Committee.

Division taken: Result: 8 Yeas, 4 Nays.

Amendment Adopted. Ordered to third reading.

HB 935

relative to proof of ownership of motor vehicles. Ought to pass. Sen. Townsend for Public Works and Transportation.

Sen. TOWNSEND: Mr. President, HB 935 repeals the provision in the proof of ownership law which requires the bill of sale to be notarized. There have been many complaints about the difficulty in finding a notary public perform this requirement. The House amended it to include motor vehicles from a bonafide trade. There was no opposition at the hearing and the Committee recommends its passage.

Adopted. Ordered to third reading.

SPECIAL ORDER OF BUSINESS AT 1:01

HB 669

to eliminate the blood test requirement for barbers and hairdressers.

Question on adoption of amendment as offered by Sen. Gardner.

Amend the bill by striking out everything after the enacting clause and inserting in place thereof the following:

1 Barber Blood Test. Amend RSA 313:11 by striking out in lines eleven and twelve the words "venereal disease in a communicable stage, or with any other communicable disease." so that said section as amended shall read as follows: 313:11 — Examinations. The board shall conduct examinations of applicants for certificates of registration to practice as registered barbers not more than eight times each year, at such times and places as the board may determine. The examination of applicants for certificates of registration as registered barbers shall include both a practical demonstration and a written and oral test, and shall embrace such subjects as the board may deem necessary to determine fitness. Before engaging in actual employment in the practice of barbering, and at least once a year thereafter, every registered barber and registered apprentice shall secure from a physician a certificate stating that such barber or apprentice is not afflicted with tuberculosis. Said certificate shall be on a form furnished by the board.

2 Hairdressers Blood Test. Amend RSA 314:23 by striking out said section and inserting in place thereof the following: 314:23 Required Certificates. Before engaging in hairdressing or manicuring on paying customers every hairdresser, manicurist, student, or apprentice shall secure from a physician a certificate stating that such person is not afflicted with tuber-

culosis. When applying for renewal of any such license the applicant shall furnish from a physician a new certificate stating that such person is then free from tuberculosis. Said certificates shall be on forms furnished by the board and shall be kept conspicuously posted with the license certificate provided under RSA 314:20.

§ Effective Date. This act shall take effect upon its passage.

* * *

Sen. DOWNING: Mr. President, I rise in opposition to the amendment as offered by Sen. Gardner and in favor of the original report as offered by the Committee. What HB 669 did was to eliminate what many people considered to be a flagrant discrimination of a segment of our people — namely barbers and hairdressers. They are the only people that are subjected to physical examinations by statute. I have a letter from Dr. Atchison, the Director of Public Health, which states that this was unnecessary. The adoption of the Committee Report would relieve this discrimination.

Sen. SNELL: Mr. President, I rise to speak on Sen. Downing's suggestion of defeating the amendment and I do it in this manner. I am sure that Sen. Gardner's amendment is in the best interest of the state. I am also concerned that Dr. Atchison is concerned about this legislation. The letter of 15 June certainly indicates that the enforcement of this legislation would be most difficult. I also agree with Sen. Downing that from a public health standpoint, legislation of this nature should be in effect for all segments of our society that service people as far as food or doctors or dentists. We do need legislation in the future affecting all servicing agents in the state.

ROLL CALL

Roll call requested by Sen. Downing, seconded by Sen. Townsend.

Yeas: Sens. Poulsen, S. Smith, Snell, Townsend, Gardner, Jacobson, Nixon, English, Leonard, Ferdinando, Morrissette.

Nays: Sen. Downing.

Result: 11 Yeas, 1 Nay.

Amendment adopted. Ordered to third reading.

ENROLLED BILLS REPORT

HB 613 relative to the terms of members of the Air Pollution Control Agency; expanding the powers of the agency and establishing a permit system for the control of air pollution.

HB 649, relative to the administration of the insurance laws.

Sen. Ferdinando
For the Committee

Sen. JACOBSON moved the Senate do now adjourn from the early session and that on third reading, all bills be read by title only and resolutions by caption only and that when the Senate adjourns today it be until tomorrow at 1 o'clock.

Adopted.

LATE SESSION

Third Reading and final passage

HB 48, permitting the reapportionment of cooperative school boards to provide for equal representation.

HB 71, relative to authority of the Coordinating Board of Advanced Education and Accreditation.

HB 451, establishing a commission to study and make legislative recommendations concerning the regulations and licensing requirements which apply to halfway houses.

HB 489, relative to the sentence for murder and the proceedings to determine the sentence.

HB 586, making it unlawful to operate a motor vehicle while in possession of a controlled drug.

HB 664, providing procedural amendments to the search warrant statute.

HB 669, to eliminate the blood test requirement for barbers and hairdressers.

HB 711, relative to certain administrative procedures within the department of education, school boards and schools.

HB 800, providing for annual physical examinations for school bus operators.

RECONSIDERATION

Sen. Downing moved reconsideration of HB 800.
Motion lost.

HB 843, authorizing temporary emergency permits in emergency situations for nursing home administrators.

HB 892, providing for an annual salary for members of the Nashua Board of Education.

HB 898, to reduce the terms of office of members and the membership of the Nashua Board of Education.

HB 935, relative to proof of ownership of motor vehicles.

HB 936, providing that cooperative school districts may elect district officers at the time and places for the election of town officers in the towns which comprise the district.

HB 956, changing the date for the regular meetings of the board of the Union School District in Concord.

HB 961, relative to supervisory union number seven.

HB 992, relative to regulation of private schools.
Adopted.

Sen. DOWNING moved the Senate adjourn at 3:30 p.m.
Adopted.

