

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fourth
Legislature*

OF THE

STATE OF MAINE

Volume III

June 17, 1969 to July 2, 1969

Index

1st Special Session

January 6, 1970 to February 7, 1970

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KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Tuesday, February 3, 1970

Senate called to order by the President.

Prayer by the Rev. Fr. Paul M. Ouellette of Augusta.

Reading of the Journal of yesterday.

**Committee Reports
Senate**

Ought to Pass

The Committee on Natural Resources on Bill, "An Act to Authorize General Fund Bond Issue in the Amount of \$4,000,000 for Removal and Abatement of Prohibited Discharges of Oil from Coastal Waters, Lands Adjoining the Seacoast of the State or Waters Draining into the Coastal Waters of the State in the Event of an Oil Pollution Disaster Declared by the Governor." (S. P. 652) (L. D. 1836).

Reported pursuant to Joint Order (S. P. 651) that the same Ought to Pass.

Which report was Read and Accepted and the Bill Read Once.

Thereupon, under suspension of the rules, the Bill was given its Second Reading and Passed to be Engrossed.

Under further suspension of the rules, sent down forthwith for concurrence.

Divided Report

The Majority of the Committee on State Government on Bill, "An Act Relating to Interest Earned on Investments of Special Revenue Funds." (S. P. 654) (L. D. 1837).

Reported pursuant to Joint Order (S. P. 637) that the same Ought to Pass.

Signed:

Senators:

WYMAN of Washington
LETOURNEAU of York

Representatives:

DENNETT of Kittery
D'ALFONSO of Portland
STARBIRD of Kingman
RIDEOUT of Manchester
MARSTALLER of Freeport
DONAGHY of Lubec

The Minority of the same Committee on the same subject matter Reported pursuant to Joint Order

(S. P. 637) that the same Ought Not to Pass.

Signed:
Senator:

BELIVEAU of Oxford

Which reports were Read, the Majority Ought to Pass Report of the Committee Accepted and the Bill Read Once.

Thereupon, under suspension of the rules, the Bill was given its Second Reading and Passed to be Engrossed.

Under further suspension of the rules, sent down forthwith for concurrence.

Orders of the Day

The President laid before the Senate the first tabled and specially assigned matter:

Bill, "An Act Relating to Water Quality Standards." (S. P. 650) (L. D. 1828).

Tabled—February 2, 1970 by Senator Reed of Sagadahoc.

Pending—Enactment.

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

Mr. BERNARD of Androscoggin: Mr. President and Members of the Senate: Pending the reproduction of a rather simple amendment, I would hope that someone might table this until a little later in today's session.

Thereupon, on motion by Mr. Cianchette of Somerset, retabled until later in today's session, pending Enactment.

The President laid before the Senate the second tabled and specially assigned matter:

Bill, "An Act Relating to the Commitment of Juveniles to Juvenile Institutions." (H. P. 1382) (L. D. 1731).

Tabled—February 2, 1970 by Senator Quinn of Penobscot.

Pending—Enactment.

On motion by Mr. Holman of Franklin, retabled until later in today's session, pending Enactment.

The President laid before the Senate the third tabled and specially assigned matter:

Bill, "An Act to Authorize a Bond Issue in the Amount of \$3,935,000

for the Construction of New Facilities and Equipment at Northern, Southern, Central and Washington County Vocational-Technical Institutes and a Diagnostic Facility for the Boys Training Center." (H. P. 1452) (L. D. 1829)

Tabled—February 2, 1970 by Senator Katz of Kennebec.

Pending—Passage to be Engrossed.

Mr. Sewall of Penobscot then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-418, was Read.

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

Mr. BARNES of Aroostook: Mr. President, I would like to pose a question through the Chair to the good Senator from Penobscot, Senator Sewall. When do we propose to offer this for referendum to the people.

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

Mr. SEWALL of Penobscot: Mr. President and Members of the Senate: This bond issue would go out, if it is passed, in the June primary election.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "A"?

The motion prevailed.

Thereupon, on motion by Mr. Katz of Kennebec, tabled, pending Passage to be Engrossed.

Mr. Logan of York was granted unanimous consent to address the Senate.

Mr. LOGAN: Mr. President and Members of the Senate: I would like to point out to you that the need for the diagnostic facility at the Boys' Training Center would be drastically reduced if item two on the table is passed, since item two would release the number of juveniles now in the center. Thank you, Mr. President.

Mr. Berry of Cumberland was granted unanimous consent to address the Senate.

Mr. BERRY: Mr. President and Members of the Senate: With relation to what Senator Logan said

about item two, L. D. 1738, this bill is a very controversial one, and I think the action on the bond issue should be taken with the expectation and hope that this bill would be killed ultimately.

The President laid before the Senate the fourth tabled and specially assigned matter:

Bill, "An Act to Permit Probable Cause Arrest on Marijuana Misdemeanor Violations." (H. P. 1375) (L. D. 1724).

Tabled—February 2, 1970 by Senator Moore of Cumberland.

Pending—Motion by Senator Kellam of Cumberland to Recede and Concur with the House.

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

Mr. LOGAN of York: Mr. President and Members of the Senate: If I understand now the impact of the Committee Amendment "A" on this bill, our police would now find themselves in this situation: let's say that a group of persons broke into a summer camp for the purposes of having a pot party. They are sitting around smoking marijuana and the police, on proper information, break in, and at the first sign of a disturbance everyone throws their cigarette on the floor. The police come in, no one has possession, so they can't be arrested on possession. Under Committee Amendment "A", it is no longer a crime to be present where it is being used. I would request that some member of the Judiciary Committee explain to me how the police are ever going to make an arrest on a marijuana charge if Committee Amendment "A" goes into effect?

The PRESIDENT: The Senator from York, Senator Logan, has posed a question through the Chair which any Senator may answer if he desires.

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

Mr. QUINN of Penobscot: Mr. President, may I have the amendment number?

The PRESIDENT: Committee Amendment "A" is Filing No. H-

659. House Amendment "A" is Filing No. H-675.

The Chair recognizes the same Senator.

Mr. QUINN of Penobscot: Mr. President, I would hope that some member of the Senate might table this until later in today's session.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Holman.

Thereupon, on motion by Mr. Holman of Franklin, retabled until later in today's session, pending the motion by Senator Kellam of Cumberland to Recede and Concur with the House.

Mr. Katz of Kennebec was granted unanimous consent to address the Senate:

Mr. KATZ: Mr. President and Members of the Senate: Without objection we just tabled an item until later in today's session. It is my opinion that this was unnecessary and will delay the session. I would urge the Senate that, if we do have controversy, let's argue about it now and dispose of these matters.

The President laid before the Senate the fifth tabled and specially assigned matter:

House Report — Ought to Pass as Amended by Committee Amendment "A" Filing H-689 from the Committee on Judiciary on Bill, "An Act Relating to Termination Statements Under the Uniform Commercial Code." (H. P. 1370) (L. D. 1719).

Tabled—February 2, 1970 by Senator Minkowsky of Androscoggin.

Pending—Acceptance of Report.

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

Mr. MINKOWSKY of Androscoggin: Mr. President and Members of the Senate: Wherein it concerns the business community paying its fair share of taxes, such as the State income tax, the corporation tax, the personal property tax, as it is subjected to, plus a corporation franchise tax, not to mention the federal income tax, plus the hiring of extra personnel to accomplish these particular tasks, now comes another

headache to cope with as presented in Committee Amendment "A", Filing No. H-689.

As you may recall, this same conglomeration was presented to us during the regular session of the 104th and was discarded then. It appears to be a strange paradox that the business community in the State of Maine, large or small, must be subjected to the whims of some members of the legal profession, wherein, as it concerns the legal profession, it appears that they are dictating what they believe is right and proper in behalf of the State.

Now, whereas we take into consideration as to who pays his fair share of taxes in the State of Maine, some people wonder sometimes, does the legal profession, in proportion to its volume of business, pay its proportionate share. I maintain basically that as to large or small businesses in the State of Maine versus the legal profession, this particular profession does not pay its fair share. It is pure and simple as to the motive: further discrimination against the Maine business community by some members of the legal profession so, basically, that they might obtain both ends and the middle, to represent the business community in one respect and the aggrieved individual who allegedly claims that his credit standing was jeopardized.

Mr. President, I now move that this particular document and all its accompanying papers be indefinitely postponed.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, moves that Bill, "An Act Relating to Termination Statements Under the Uniform Commercial Code," be indefinitely postponed.

The Chair recognizes the Senator from Franklin, Senator Holman.

Mr. HOLMAN of Franklin: Mr. President and Members of the Senate: I cannot understand for the life of me why my good friend, Senator Minkowsky, tries to develop this into a self-serving bill for the legal profession unless he thinks that perhaps he might put the label on it as a lawyer's bill and try to defeat it.

This is not a lawyers' bill; this is a consumers' bill, Mr. President and Members of the Senate. I believe that if the cost of discharging these personal property mortgages is paid by the poor debtor, the person who goes in and buys from the Day Company in Portland a toaster, or something like that, and he finances it, and if that consumer pays the two dollars I see no problem in asking Days' or any other company to send the receipt or the discharge into the central recording office.

This bill has much merit because a lot of businesses, Mr. President and Members of the Senate, accumulate maybe thousands of mortgages on snowblowers, automobiles and things like that, and never take the time to discharge them. Then the person who is not experienced in the business, like the consumer, the young couple who just got married and have to buy maybe fifteen different types of things for their homes, and have fifteen small mortgages of a personal property nature, after they get their receipt they would lose those in their informal filing cabinet and never get them discharged. So, if they went in to borrow some money at a bank for something more important perhaps, the banker would call up the State House, the recording area, or the local town office and find that this young couple might owe \$10,000, according to the records, but actually they didn't owe a cent.

The only purpose of this is to make our commercial system in the State of Maine work the way it does in other states and that is that, if a recording device is recorded against someone, that the burden is on the seller of those items to just have his secretary drop it in the mail, and the two dollars for doing this is already paid by the consumer. I move its passage. Thank you.

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

Mr. MINKOWSKY of Androscoggin: Mr. President and Members of the Senate: There is just one final remark that I would like to bring to your attention. I men-

tioned this superficially yesterday, and I would like to go a little more into detail today.

On this particular amendment, in the second half of it on Page 2, it specifies the following: "If the affected secured party fails to file such a termination statement, he shall be liable to the debtor for \$100, and in addition for any loss caused to the debtor by such failure." In simple English, I think this is pretty much self-explanatory: if a recorded mortgage for \$45 or so was placed on file with the city clerk or the town clerk, and through some clerical error in some of the large stores that actually handle it this particular way, that the debtor would have an automatic recourse against the creditor in this particular case for \$100, plus any other damage that the debtor or his attorney might feel was caused against the aggrieved.

When the vote is taken, Mr. President, I would request a division.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from Androscoggin, Senator Minkowsky, that Bill, "An Act Relating to Termination Statements Under the Uniform Commercial Code," be indefinitely postponed. A division has been requested. As many Senators as are in favor of the motion to indefinitely postpone the bill will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. Six Senators having voted in the affirmative, and twenty-four Senators having voted in the negative, the motion did not prevail.

Thereupon, the Ought to Pass, as Amended, Report of the Committee was Accepted in concurrence and the Bill Read Once.

Committee Amendment 'A', Filing No. H-689, was Read and Adopted in concurrence and, under suspension of the rules, the Bill, as Amended, given its Second Reading and Passed to be Engrossed in concurrence as amended.

Under further suspension of the rules, sent forthwith to the Engrossing Department.

The President laid before the Senate the sixth tabled and specially assigned matter:

HOUSE REPORTS — from the Committee on Taxation on Bill, "An Act Increasing State Tax in Unorganized Territory, Relieving Elderly Persons from Property Tax and to Study the Assessment of Taxes in Unorganized Territory." (H. P. 1406) (L. D. 1762) Majority Report, Ought to Pass in New Draft, under New Title Bill, "An Act Increasing State Tax in Unorganized Territory." (H. P. 1448) (L. D. 1824); Minority Report, Ought Not to Pass.

Tabled—February 2, 1970 by Senator Wyman of Washington.

Pending—Acceptance of Either Report.

On motion by Mr. Barnes of Aroostook, retabled until later in today's session, pending Acceptance of Either Report.

On motion by Mr. Katz of Kennebec, the Senate voted to take from the table the first tabled and unassigned matter:

Bill, "An Act to Promote Governmental Reorganization and Efficiency." (S. P. 641) (L. D. 1812)

Tabled—February 2, 1970 by Senator Katz of Kennebec.

Pending—Consideration.

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

Mr. TANOUS of Penobscot: Mr. President, what is the status of this bill at this time?

The PRESIDENT: In the House on January 29th it was passed to be engrossed as amended by House Amendment "A" and House Amendment "B" in non-concurrence. It was tabled in the Senate on January 30th and yesterday pending further consideration by the Senate. We are in non-concurrence with the House.

Mr. TANOUS: May I inquire of the Chair as to the House Amendment filing numbers?

The PRESIDENT: House Amendment "A" is Filing No. H-676.

House Amendment "B" is Filing No. H-667.

Is it now the pleasure of the Senate to recede and concur with the House?

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President, for the purpose of offering an amendment I presume that the proper motion is to recede from our previous position.

The PRESIDENT: The Senator is correct.

Mr. KATZ: Or might the amendment be offered after the motion to recede and concur?

The PRESIDENT: If the Senator wishes to offer an amendment, the proper motion would be to recede from our former action whereby the bill was passed to be engrossed, under suspension of the rules.

Mr. KATZ: I so move, Mr. President.

The PRESIDENT: Is it now the pleasure of the Senate, under suspension of the rules, that the Senate recede from its action whereby this bill was passed to be engrossed?

The Chair recognizes the Senator from Sagadahoc, Senator Reed.

Mr. REED of Sagadahoc: Mr. President, since it takes suspension of the rules, I feel at this time that the amendment possibly should be debated. If it isn't, then I would oppose the motion to recede under suspension of the rules.

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

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: The proposed amendment which I have, and which I am sure you read yesterday, is under Filing No. S-422. The proposed amendment seeks to strike out all of Part A of L.D. 1812, and I would like to go into my reasons for wanting to do this.

I understand the purpose of this bill is to review our State Government organization and study and recommend ways to more efficiently operate our government. That is my understanding of Part A. Now I agree with the purpose, but wholeheartedly disagree with the

procedure that is set up in the act, which requires only a study and recommendations to be submitted at the next regular session.

I specifically refer to Section 3 of Part A, and you will note that one of the amendments has already removed the last paragraph of Part A, for very good reason, because this particular paragraph gave the secretary such unlimited authority that it certainly was administrative in nature.

Now, the next to the last paragraph, if you will refer to L.D. 1812, makes available to the secretaries copies of all the reports, with no exception for those which are confidential in nature. For instance, in the Department of Labor and Industry only individual reports are filed by companies. These reports that the companies file give very confidential information, such as to the number of employees that they have, the wages that are paid, the value of the product, the value of capital expenditures, and projected expenditures during the next five years. Now, the Labor Department requests much of this information from our employers in the State.

Now, these data sheets are held by Miss Martin under lock and key. This is very important information, and this information is revealed to her by these industries in the State of Maine in strict confidence. So, if the next to the last paragraph in Section 3, Part A, is to be carried out, then she would have, and other departments as well, would have to release this information to this secretary. Now, there are an untold number of ways, I assume, that the information could be used by these people who would seek to get this information that is confidential in nature, and it could be very damaging to some of our industries and employers. It would reveal in many instances information which could be used unfairly in labor negotiations.

Now, until the organization is consummated, and the secretaries are charged with the same responsibility as to confidentiality as the commissioner now is, it would be dangerous to put such information in her hands as each

department would have to do in a case where they were requested to do so.

Personally, this type of procedure of governmental reorganization, I believe in it, believe me, and I mean that very sincerely, but to me this is purely administrative in nature. So far, up to now, we have left this up to the Legislative Research Committee. This is the group that has done this, that has sought to reorganize government, because it is administrative in nature. Personally, and I think you will agree with me, I think that up to now we have only permitted this type of legislation to be enacted when the authority was delegated to Legislative Research, and not to a particular group or individual. I think it removes from the Legislature a purely legislative task and puts it in the hands of a group of secretaries, so-called, who would receive, as I have mentioned, very, very confidential information which could be used in many detrimental ways by the people that may have access to this.

For these reasons, I ask that you support me on my Senate Amendment "A" that I will, hopefully, introduce. Thank you.

THE PRESIDENT: The Chair would interrupt debate to apologize to the Senate for a ruling made yesterday in which the Chair was in error. On Bill, "An Act to Permit Probable Cause Arrest on Marijuana Misdemeanor Violations," the Chair ruled that it took a two-thirds vote for the Senate to recede. The Senate can recede and concur on a majority vote, the Senate can insist on a majority vote, the Senate can adhere on a majority vote, and the Senate can recede on a majority vote.

The Chair recognizes the Senator from Oxford, Senator Beliveau.

MR. BELIVEAU of Oxford: Mr. President and Members of the Senate: Only on infrequent occasions do I disagree with my seatmate, Senator Tanous from Penobscot County, but it appears to me that his concern is not particularly well-founded here. If he is to suggest that the Commissioner of the Department of

Labor and Industry opposes this act, then the reasons which she outlines and the reasons which she advances for this are not particularly well-founded.

In my two terms here in the Legislature I don't believe that we have accomplished any semblance of reorganization or efficiency in all of the orders and bills that have been passed here and suggested during the past four years.

Part A of L.D. 1812 simply requests that the Legislature grant authority to the Governor to proceed in the coming years to analyze programs and the goals of the various departments in the State in four fields. First, in the field of manpower. We all know that many of our State agencies are performing services in the field of manpower which are duplicating, overlapping and frequently are unnecessary. One of the primary complaints that I have heard recently is that there appears to be no coordination in this area. We find the Department of Health and Welfare, the Department of Labor, the Department of Employment Security, and many others, are all involved in this area of manpower training and manpower generally. In the area of natural resources, transportation and cultural affairs, we find as many diverse programs as there are departments in the State.

The purpose of this L.D. is to permit the Governor to present these proposals for reorganization to the next regular session of the Legislature. This would permit the selection of four secretaries from existing State departments, or State administrators, to coordinate research in these various areas. Now, I don't believe that the secretaries, whoever they might be, would divulge or reveal anything of a confidential nature. If Senator Tanous is concerned with the privileged communication that is on file in these various agencies, then I would suggest that an amendment be prepared to protect it.

Now, this is the first real attempt that I am familiar with to enact or at least to investigate the possibilities of achieving some efficiency in State Government.

None of these programs would be altered under this bill. It is merely an initial attempt to accomplish reorganization and some efficiency. I would urge the members of the Senate to oppose the pending motion, because I fail to see how the Labor Department would be damaged in any way by the passage of this order.

I support the amendments which have been introduced here. And for those of you who will recall, the original document, which was a very, very lengthy and extensive one, you must agree with me that the document before us, L.D. 1812, represents a severely curtailed and restricted attempt to reorganize State Government. L.D. 1812 represents the unanimous report of the Committee on State Government. Following the report, of course, there have been several amendments, all of which I believe the members of the Committee concur with. So, we have a very microscopic document before us. It is not as damaging as some would suggest, and it certainly attempts to accomplish a goal which has been sadly neglected in the past. I urge the members of the Senate to oppose the pending motion.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Kennebec, Senator Katz, that the Senate recede from its action whereby Bill, "An Act to Promote Governmental Reorganization and Efficiency," was passed to be engrossed.

The Chair recognizes the Senator from Sagadahoc, Senator Reed.

Mr. REED of Sagadahoc: Mr. President and Members of the Senate: I would also oppose the motion to recede, although possibly there is an area for an amendment if there is this concern expressed by the Senator from Penobscot, Senator Tanous.

It has already been mentioned that the original document, 1792, has been pared down considerably. The two amendments that have been presented are that the secretary has to have approval by the Governor and Council, and I believe also one of the amendments deletes the last paragraph in Section A.

I feel as if this is somewhat of a modest step forward. I can't say that the action taken here this morning is completely unexpected. As sponsor of this bill, I somewhat predicted this for quite some time.

I was impressed the other day by what took place in the other end of the corridor. I felt as if I heard one of the best speeches made there in regard to the defense of this particular legislative document.

I also would feel that the fears expressed here this morning are somewhat taken care of already in this legislative document at the top of the second page. It says "Each secretary will in the performance of his duties have access to all records and information related to his task." Now, I assume that if there was confidential matter here that could not be proven to be in direct relation to the task of the secretary then this information could be withheld from the secretary.

During the regular session we had a bill in here in regards to having a committee or department of natural resources. This is something that is quite close to my heart. I realize manpower — I guess on the federal level they are pushing this — but I do feel that our present setup, as far as our natural resources are concerned, is very ambiguous, and I think that it is confusing to the voters of the State. In fact, I feel as if really Part A is probably the most important part because in one sense, as far as I am concerned, it establishes a direct route, or more direct route, from the people whom we represent to their government. Presently it is very confusing if you want something. I know that I get calls, and I am sure that you do, and we have to stop and think, and I feel rather foolish by not being able to tell them directly what department to go to. And certainly, as far as natural resources are concerned, they can start at the top and then from a directory be put in touch with the proper agency.

Part B is the board of registration, which is a minor change. I don't know that it is too earth-shaking. I think that this is some-

thing that both parties evidently agree on. Part C isn't that important either, but Part A, I feel, sets a direction. I am not sure but what the Governor cannot do this himself actually, but his feeling is that he would like to have the legislative intent behind his action, simply because of some of the reasons that the Senator from Penobscot, Senator Tanous, has already mentioned, that a chief executive has a very difficult time in getting the cooperation of these various departments because they resist change, which is only natural because it is going into their own domain and shaking them up, and they are not sure how they are going to come out in the shuffle, so they are somewhat reluctant to support this type of move. I think all that the Chief Executive of the State desired here in this legislation was to get legislative intent behind him so that they would feel compelled to cooperate with him.

I would hope that the amendment deleting Part A is not adopted here, and I would hope that some language might be added to limit these secretaries if the feeling is that they are presently not limited in regards to going into confidential areas.

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

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: I would ask the Senate to go along with the motion to recede for the purpose of offering the amendment of the Senator from Penobscot, Senator Tanous.

I am disappointed that the question of governmental reorganization hasn't been wrestled with successfully before this time. This is one of the task forces which I had hoped would report to the regular session but regrettably, they didn't report until the special session.

I think I can say with some certainty that the Republican Party is dedicated to some specific overt and significant action at this session of the Legislature in the field of governmental reform, and I would assure the Senate that, if they do go along and recede,

within the next day or so we will have an alternative path that we might follow with some bipartisan support.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: In considering L. D. 1812, I think we should pay a great deal of attention to the background of this L. D. I think that frequently the philosophy expressed, or that is attempted to be expressed, can be more clearly seen when we look a little bit into the history.

I would like to point out that the make-up of this committee is rather interesting in that I have heard it said several times that it is a bipartisan committee. In looking over the roster of the membership of the committee I find such individuals on it whom I associate quite strongly with, shall I say, the partisan side of the Democratic Party, and I find no one included in the membership of the committee who I would include as a partisan Republican, if there is such an individual. I find, for instance, Representative Kathleen Watson Goodwin on the committee. I find Representative John L. Martin on the committee. I find Mr. Paul Mitchell on the committee. But the king of all, in my opinion is the Chairman, Mr. Donald E. Nichol. Now, Mr. Nichol's address in the letter from the Governor to him is: Mr. Donald E. Nichol, Administrative Assistant to Senator Edmund S. Muskie, 2121 Senate Office Building, Washington, D.C. I would hold, Mr. President and Members of the Senate, that this determines a certain level perhaps on which it is a little difficult to discuss this bill in dispassionate terms.

Now, a dispassionate appraisal of our problem would take into accounts certainly the political philosophies of the two parties in our State Government. It is known that the Executive Council is a thorn in some people's sides and a crown on the heads of others, and to include the thinking that is expressed in our quote here, with a complete section devoted to the Executive Council, "There was

strong sentiment within the task force for the abolition of the Executive Council," I would say that expressions of such sentiment do not lead some of us, who of course are quite neutral in the situation, to consider this an unbiased report.

I would also call to the attention of the members of the Senate that there was a genuine, honest attempt, a sincere attempt, made at the last session to make a slight start in this matter of government reorganization, namely; the consolidation of some of the departments that would have as a common denominator our natural resources. This was fought by the Governor and by the members of the Democratic Party in both houses on the theory that we would have to await the outcome of this particular report here. Now, I say that we have awaited the outcome of the report, it is along the lines I indicated, and that it was pure partisan politics to have turned down at the last regular session of the Legislature an honest attempt by the Republicans to make an initial start on government reorganization. I think the watered down version of 1812, leaving merely the voter registration problem, and it certainly is a problem, and the new Part B which I am not, incidentally, overly sold on, the consolidation of the three credit agencies of the State, in the bill, this is the least, I think, that we could find to be palatable.

Actually, I don't believe the bill itself has much left in it. The only one that I would fight for perhaps would be the board of registration reorganization, but that isn't too good. As a matter of fact, it says in here that the third member — you understand that the boards of registration will be comprised of three members, one appointed by each party in a community of over 5,000 — and the third shall be elected by the legislative body of the municipality from the major political party with the largest total enrollment in the municipality. That is an interesting qualification. I don't believe that it would be too hard to shoot holes into that. By what enrollment are we going? I know some communities in the

State have a large enrolled Republican registration, and yet they seem amazingly unable to send to Augusta any members of the Republican Party.

So, if Part B isn't too good now, and Part C isn't too good, I really don't know what we are talking about.

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

Mr. BELIVEAU of Oxford: Mr. President and Members of the Senate: It is my understanding that when this committee was selected it was done with the intention of providing political balance. As a matter of fact, so much so that the Republicans on the committee are the majority of the committee. My good friend and colleague, Senator Berry from Cumberland County, is concerned with the make-up of the committee, but he has not directed any of his debate towards the merits of the report.

It cannot be denied that the Citizens' Committee on Governmental Reorganization met over a period of several years and conducted an in-depth analysis of the problems confronting us here in Maine.

Not to prolong this any further, but limiting my comments to L.D 1812 as it appears before us, most of the amendments here today were concurred with and recommended by our Republican members of the State Government Committee, particularly that relating to the board of registration. It was their suggestion that this language be included; we didn't object to it. In the name of efficiency and cooperation, and to avoid injecting any suggestion of partisan politics here, we all went along with it. As I say, this document before you represents a unanimous report of the State Government Committee.

I certainly can't agree with the good Senator's suggestion that his comments are a dispassionate appraisal for, again, his comments in debate were limited to personalities involved here, and not to the recommendations of the committee.

Again, finally, I would like to urge, if we are going to be consistent here, the members of the Senate to reject or oppose the

pending motion so that we can make at least an attempt to enact some legislation which would ultimately lead to reorganization and efficiency.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: I think we always look to the source of these reports of task forces, and I am confused. I would direct a question through the Chair to the Senator from Oxford, Senator Beliveau. It has been my understanding in reports to me that this task force met for the first time in July 1969, some eighteen months after they had been appointed, and there was only one other subsequent formal meeting. If this is true, I place a substantially less amount of weight to their report.

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

Mr. BELIVEAU of Oxford: Mr. President and Members of the Senate: In reply to the question, it is my understanding that they have had several meetings, and the first meeting was not July of 1969. They had several organizational meetings and I understand at least two public hearings were held. Invitations were extended to people who were concerned and interested: government officials, county and municipal officials, teachers, anyone who could be remotely affected by the proposed legislation.

I think that here, again, no one has directed their debate to the report. They seem to be circumventing the contents of the document and, as the good Senator from Kennebec, Senator Katz, is concerned, there appears to be more concern with the source of the report rather than its contents.

The PRESIDENT: The pending question before the Senate is the motion of the Senator from Kennebec, Senator Katz, that the Senate recede from its action whereby it passed to be engrossed Bill, "An Act to Promote Governmental Reorganization and Efficiency." The Chair will order a division.

As many Senators as are in favor of the motion of the Senator from Kennebec, Senator Katz, that the Senate recede please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. Seventeen Senators having voted in the affirmative, and thirteen Senators having voted in the negative, the motion prevailed.

Mr. Tanous of Penobscot then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-422, was Read.

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

Mr. BELIVEAU of Oxford: Mr. President, I request a roll call.

The PRESIDENT: A roll call has been requested. Under the Constitution, in order for the Chair to order a roll call, it requires the affirmative vote of one - fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted.

Obviously more than one - fifth having arisen, a roll call is ordered. The pending question before the Senate is the adoption of Senate Amendment "A" to Bill, "An Act to Promote Governmental Reorganization and Efficiency." A "Yes" vote will be in favor of adopting Senate Amendment "A" a "No" Vote will be opposed. The Secretary will call the roll.

ROLL CALL

YEAS: Senators Anderson, Berry, Dunn, Greeley, Hanson, Hoffses, Holman, Katz, Logan, Moore, Peabody, Quinn, Sewall, Stuart, Tanous, Wyman, and President MacLeod.

NAYS: Senators Beliveau, Bernard, Boisvert, Cianchette, Conley, Duquette, Gordon, Kellam, Letourneau, Martin, Minkowsky, Reed and Violette.

ABSENT: Senators Barnes and Levine.

A roll call was had. Seventeen Senators having voted in the affirmative, and thirteen Senators having voted in the negative, with two Senators absent, the motion prevailed.

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

Mr. KATZ of Kennebec: Mr. President, a point of inquiry: Are there a couple of House Amendments to be disposed of also?

The PRESIDENT: The Senator is correct.

House Amendment "A" was then Read.

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

Mr. KATZ of Kennebec: Mr. President, I note that House Amendment "A" pertains to part A, which we have just amended out of the bill, I believe.

The PRESIDENT: The Senator is correct.

The Chair recognizes the Senator from Cumberland Senator Berry.

Mr. BERRY of Cumberland: Mr. President, I move that House Amendment "A" be indefinitely postponed in non-concurrence.

The PRESIDENT: The Senator from Cumberland, Senator Berry, moves that House Amendment "A" be indefinitely postponed in non-concurrence. As many Senators as are in favor of House Amendment "A" being indefinitely postponed will please say "Yes"; those opposed will say "No".

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President, I request a division.

The PRESIDENT: A division has been requested. As many Senators, as are in favor of the motion of the Senator from Cumberland, Senator Berry, that House Amendment "A" be indefinitely postponed will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. Fifteen Senators having voted in the affirmative, and twelve Senators having voted in the negative, the motion prevailed.

House Amendment "B" was then Read.

Thereupon, on motion by Mr. Katz of Kennebec, House Amendment "B" was Indefinitely Postponed in non-concurrence and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Under suspension of the rules, sent down forthwith for concurrence.

On motion by Mr. Hoffses of Knox,

Recessed pending the sound of the bell.

(After Recess)

Called to order by the President.

Out of order and under suspension of the rules, the Senate voted to take up the following:

Papers From The House

Joint Order

ORDERED, the Senate concurring that there is appropriated to the committee created by Joint Order (S. P. 537) passed at the regular session of the 104th Legislature to make an analysis of the functions and duties of the Department of Inland Fisheries and Game, the sum of \$1,000 from the Legislative Appropriation to continue to carry out the duties of the committee, (H. P. 1461)

Comes from the House, Read and Passed.

Which was Read.

On motion by Mr. Katz of Kennebec, tabled until later in today's session, pending Passage.

Joint Order

WHEREAS, more and more land is being given to or taken by the State for conservation and recreational purposes and

WHEREAS, the recreation and camping business is one of the growing industries in this State; and

WHEREAS, the State and private enterprise are both involved in providing recreational and camping areas; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Research Committee study and report to the 105th Legislature the policies of the State relative to these areas, their effect on local communities and their effect in encouraging or discouraging private industry in performing these same functions. The study shall include but not be limited to number and locations of state and forest service facilities, fees charged, cost to the taxpayer, possibility of special rates to Maine

citizens, possibility of contributions to municipalities where areas are located in lieu of taxes and possible legislation to clarify the role of the State in this important area. (H. P. 1463)

Comes from the House, Read and Passed.

Which was Read.

On motion by Mr. Katz of Kennebec, placed on the Special Legislative Research Table.

Joint Order

WHEREAS, the preservation and improvement of the Maine environment is of paramount concern to the Legislature; and

WHEREAS, the Legislature has delegated to the Environmental Improvement Commission primary authority and responsibility for such preservation and improvement, and has during recent sessions greatly expanded the scope of the commission's duties in this regard; and

WHEREAS, the commission has functioned as a part-time regulatory commission since its inception in 1941; and

WHEREAS, there is concern whether the part-time structure and the present organization of the commission is best suited to carry out its expanded responsibilities with respect to preservation and improvement of the Maine environment; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Research Committee be directed to study the operations and organization of the Environmental Improvement Commission, such study to include but limited to the following areas of concern:

1. Should the commission, in view of the increased environmental responsibilities delegated to it by the Legislature, be decreased in size and its members appointed to serve on a full-time basis?

2. Should the commission conduct its license-issuing and enforcement hearings through hearing examiners?

3. Should one or more Assistant Attorneys General be detailed full-time to the Commission?

4. Are commission pay scales sufficient to attract and retain competent staff personnel?

5. Is the commission staff properly organized and trained to carry out its responsibilities? and be it further

ORDERED, that the Legislative Research Committee report its findings and recommendations, including any proposed legislation, to the next regular session of the Legislature; and be it further

ORDERED, that the Committee is authorized to employ such professional and clerical assistance as it deems necessary within the limits of funds provided; and be it further

ORDERED, that there is appropriated to the Committee from the Legislative Appropriation the sum of \$1,000 to carry out the purpose of this order. (H. P. 1460)

Comes from the House, Read and Passed.

On motion by Mr. Katz of Kennebec, placed on the Special Legislative Research Table.

Joint Resolution

JOINT RESOLUTION
COMMENDING THE SECRETARY OF THE INTERIOR AND MIGRATORY BIRD CONSERVATION COMMISSION FOR THE RACHEL CARSON NATIONAL WILDLIFE REFUGE

WHEREAS, the mystery and true meaning of the sea stimulated Miss Rachel Carson's classics, **The Sea Around Us**, **The Edge of the Sea** and **Silent Spring**, giving the world a deeper understanding of dangers associated with the indiscriminate use of D.D.T. and other pesticides and the unfortunate manipulation of nature; and

WHEREAS, thirteen hundred and five acres of salt water marsh along forty miles of Maine coast from Kittery to Portland have been set aside and named the Rachel Carson National Wildlife Refuge in honor of the late conservationist - author; and

WHEREAS, this national refuge, established in 1966, will be expanded to include four thousand acres of protected marshlands which are vital to migratory birds of the Atlantic Flyway and as a source of food for many forms of

sea life, including clams and lobster; now, therefore be it

RESOLVED: That we the Members of the Senate and House of Representatives of the State of Maine in the One Hundred and Fourth Special Legislative Session assembled, commend the Honorable Walter J. Hickel, Secretary of the Interior, and the members of the Migratory Bird Conservation Commission for the important role they have played in establishing and designating the Rachel Carson National Wildlife Refuge; and be it further

RESOLVED: That a suitable copy of this Resolution be immediately transmitted by the Secretary of State to the Secretary of the Interior, the Migratory Bird Conservation Commission, and the Maine Congressional delegation. (H. P. 1462)

Comes from the House, Read and Adopted.

Which was Read and Adopted in concurrence.

Enactors

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

An Act Relating to Waste Discharge License Provisions. (H. P. 1445) (L. D. 1821)

An Act Establishing a Consumers' Council. (H. P. 1447) (L. D. 1823)

On motion by Mr. Sewall of Penobscot, placed on the Special Appropriations Table.

An Act to Make Allocations from Bond Issue for Construction and Equipment of Pollution Abatement Facilities. (H. P. 1455) (L. D. 1833)

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

Emergency

An Act Permitting the Town of Madasawka to Join School Administrative District No. 33 Under Certain Conditions. (H. P. 1450) (L. D. 1826)

This being an emergency measure, and having received the affirmative votes of 28 members

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

Emergency

An Act Permitting the Town of Winterport to Join School Administrative District No. 22 or School Administrative District No. 56 Under Certain Conditions. (H. P. 1451) (L. D. 1827)

This being an emergency measure and having received the affirmative vote of 28 members of the Senate was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

Bond Issue

Bill, "An Act to Authorize Bond Issue in the Amount of \$24,835,000 for the Construction and Renovation of Higher Education Facilities at the University of Maine." (S. P. 603) (L. D. 1778)

In the Senate February 2, 1970, Passed to be Engrossed as Amended by Committee Amendment "A" as Amended by Senate Amendment "A" and House Amendment "B" Thereto, in concurrence.

Comes from the House, having Failed of Passage to be Enacted.

On motion by Mr. Katz of Kennebec, the Senate voted to Recede from its action whereby the Bill was Passed to be Engrossed.

Thereupon, on further motion by the same Senator, tabled pending Passage to be Engrossed.

Mr. Hoffses of Knox then moved that the Senate recess until 5 o'clock this afternoon.

(Senate at Ease)

Called to order by the President.

Mr. Hoffses of Knox was then granted leave to withdraw his motion to recess.

The President laid before the Senate the first matter tabled earlier in today's session, by Mr. Cianchette of Somerset:

Bill, "An Act Relating to Water Quality Standards" (S. P. 650) (L. D. 1828).

Pending—Enactment.

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

Mr. BERRY of Cumberland: Mr. President, there is an amendment being prepared and it will be available shortly, but I would hope somebody would table this until later in today's session.

Thereupon, on motion by Mr. Bernard of Androscoggin, retabled until later in today's session, pending Enactment.

The President laid before the Senate the second matter tabled earlier in today's session, by Mr. Holman of Franklin:

Bill, "An Act Relating to the Commitment of Juveniles to Juvenile Institutions" (H. P. 1382) (L. D. 1731).

Pending—Enactment.

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

Mr. QUINN of Penobscot: Mr. President and Members of the Senate: This bill was brought before the Judiciary Committee and we were astonished to find that there were a large group of boys being held in the Boys Training Center, approximately 60, that had not committed any crime in the form of a misdemeanor or a felony. They were not there because of a violation or a crime, but in most instances they were there because of truancy or because of the fact that they couldn't get along with their family or their school administrators. It seems that the easiest way for those groups to get them out of the area was to bring a complaint against them of juvenile delinquency, and thereby have them committed to the Boys Training School.

The Superintendent of the Boys Training School was very much disturbed about it. These youngsters, the mentality of them, they are mostly normal boys, but are susceptible to being led by some of the boys. He claims that he has no place to keep these boys in his institution separate and apart from the boys that are committed there for criminal offenses, violations or misdemeanors or felonies and, in his judgment, they

should not be there because they are exposed to the contamination of those boys that have started on the road to crime. These boys are of such a caliber that they can very well be influenced and very likely come out and be in the same category, and he feels that they should not be in his institution. He says there is no provision, he has no facilities, in the institution to segregate these boys from those others that have already been convicted of criminal offenses.

The purpose of this bill was to provide that no juvenile shall be committed to the Boys Training Center or the Stevens School where the thing that he is being committed for would not have been a misdemeanor or a felony if he was an adult. Now, a boy under sixteen years old, if he is held and convicted of an offense, he isn't convicted of the particular offense like larceny, breaking and entering, and so forth, or these other offenses; he is convicted of juvenile delinquency.

The Superintendent feels that these boys who are sent down there for truancy should not be allowed to intermingle with boys that are down there for committing crimes. This act, if it is passed, would prevent any of the courts from sending boys down there that have not been guilty of a crime that would have been a misdemeanor or a felony if they were adults.

the PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: My attention was first drawn to the effect of this legislation by a group of junior high and high school principals in the Portland and Greater Portland area who were quite concerned as to the effects of this legislation on the truant problem that they faced.

With the cooperation of Senator Quinn, Senator Holman, and Senator Violette, we had a meeting yesterday here in the Senate Chamber with these gentlemen and Dr. Schumacher, and I was, above all, impressed by the sincerity and the concern of these professional people in dealing with these young

people under their charge. May I say now that they feel that the passage of this legislation will make them powerless to maintain a line of communication with these problem students.

Now, we are not talking, as far as this group that I mentioned to you, we are not talking about those people who are found guilty by the courts of committing crimes; we are talking about the truancy problem. The only proponent of the legislation is Mr. Hewes of the South Portland School whom, I am in complete agreement, is doing an outstanding job. There were no opponents at the hearing, so this legislation has arrived at this point with little discussion.

Mr. Hewes has said that it is not an emergency situation. These people that I mentioned to you are professional people who are very, very concerned that they not separate these boys and cut their line of thinking, their line of being able to talk to these people, these youngsters.

Now, this is a complex problem and, as Senator Quinn of Penobscot has said, the problem of intermingling those who are subject to the truancy law with a hardened criminal is one of the main problems we are faced here with. It would seem to be that it would be the better solution that this be referred to the 105th. Another year is not going to be fatal to the problem, and I would hope that we wouldn't tell these professional people who are trying to help the young people out that "No, we are not going to pay attention to your viewpoint." I think that this would be wrong. Accordingly, I would hope that we would not pass this to be enacted, after which I would move that it be referred to the 105th Legislature.

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

Mr. BELIVEAU of Oxford: Mr. President and Members of the Senate: Once again I must disagree with my good friend from Cumberland County, Senator Berry, in his conclusion that this is not an emergency matter. Quite the contrary, it is an emergency, because there are boys in that

institution today who have not committed a crime, who are there because the Boys Training Center is now a convenient depository for truants.

I think that we ought to look very carefully at this legislation, because when we in Maine think that it is easier to solve our social problems by committing juveniles to penal institutions then I think that we should review very carefully our sense of values and determine exactly what our role is going to be.

I think it is misguided paternalism on our part to think that we are serving the best interests of these unfortunate juveniles to send them to the Boys Training Center when they apparently are having difficulty with the school officials or with their parents.

It is also important to know and to remember that some of these students, some of these juveniles, remain at the Boys Training Center until they reach a majority. They are not sentenced there for a definite period of time but, to the contrary, they are there for an indefinite period of time.

It appears to me that the argument that there was only one proponent, and no opponents is not a valid one. I know that if the parents and friends of some of these students who are presently inmates at the Training Center knew of the hearing that they would certainly appear here. I know many instances where boys who suffered from emotional problems were committed to the institution and discharged at a later date with an aggravated emotional problem.

I support Senator Quinn in this legislation and believe that it is absolutely important that it be passed today, because a continued delay would only aggravate a very unpleasant situation that exists at the Boys Training Center and at the Stevens School.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: I have listened with great

interest to both arguments presented by Senator Berry from Cumberland, and my good friend, Senator Beliveau from Oxford. Both points are well taken, but neither one of them answered the question which is most prominent in my mind: What do you do? What do you do with these children? Both of them agreed that there is a problem, but yet we offer no solution. Apparently the present situation is a solution. Inadequate as it may be, it is. If we enact this legislation today then we should be ready to enact subsequent legislation which would solve the problem, because this legislation doesn't solve the problem.

I grant you that I don't believe in incarcerating any individual who is not guilty of a crime, but yet many parents who have rebellious children, truant children, problems disrupting the whole household and the other brothers and sisters of the family, what does a parent do? This is a serious problem, a very serious problem. I have had occasion to run into it on two occasions in the past year. The parents involved were prominent parents, but what do they do with a child that is rebellious, who won't listen, who won't go to school, who won't do anything that they want him to, who runs the streets and comes home at all hours of the night? What do you do with a child like this? You take him out to the woodshed, somebody just mentioned — fine, this is a good treatment. Good treatment. The next day the parents are in court for doing it.

There is a problem here, and it deserves a little more attention than just saying let's pass a law that is going to get these kids out of these schools because they don't belong there. Well, perhaps this is so, but where do they belong? They certainly belong in our society, but they should be rehabilitated to take their place in society, and we have no provision for this in our law. We don't have any half-way houses, so to speak. We do have centers where you can take these children, but this isn't sufficient to solve the problems that most of these kids have. Until I am

given a solution to this problem, a center where these children may be sent for assistance, I feel we should not repeal the existing law, but they should remain there until we come up with a different law that would answer the problem. I ask for your support. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Oxford Senator Beliveau.

Mr. BELIVEAU of Oxford: Mr. President and Members of the Senate: I am somewhat shocked by Senator Tanous's statement. As the father of many children, I don't believe that if he were experiencing difficulty with his children in disciplining them that he would suggest that they be committed to the Boys Training Center.

We have many, many mental health clinics in this State and the practice that is now being resorted to by many of our District and Superior Courts is to refer or else order that the child receive psychiatric assistance at one of these mental health clinics, and it has worked out very well.

We know that the Boys Training Center is understaffed, that they don't possess the personnel to cope with the problem. The solution is not to refer our problems to a penal institution.

The only argument that has been raised here really is that the teachers or the educators would like to use this as a depository. The Senator agrees, agreed unequivocally, that the Boys Training Center is not the solution. Then let's remove them from this institution. Let's convey the message to the courts, the parents, and the teachers to use our mental health facilities. They are available practically in every county. The Boys Training Center is not the solution. I urge you to support the unanimous Judiciary Committee Report and enact this document.

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

Mr. VIOLETTE of Aroostook: Mr. President and Members of the Senate: I think this is one of those bills where the committee considers — and I know at least that in my deliberations in considering

this piece of legislation — as in many instances there are elements and there are both sides of a story that have to be considered, and you finally come up with a judgment.

The issue raised by Senator Berry, with regards to the truanies and what you do with them, certainly is one of the items that I wrestled with personally in making my decision on this bill. This is one of the items that we definitely have to give very serious consideration.

There probably at this time is a void in our institutional system where there may not be a place in our institutions for this type of a juvenile. But I have been for a long, long time pretty well disturbed that we are not exhausting all of our resources at the community level to take care of this type of a young person. I think that too often our law enforcing authorities, our educational authorities, the community itself, and the parents themselves, knowing that you can take this child and commit him somewhere, it results in a failure on the part of the community, on the part of our institutional-educational people, on the part of the parents, on the part of our law enforcing authorities, to make use of all the avenues available at the community level and at the state level outside of the institutional system to see what can be done. I think that too often this means of "If you are having a hard time handling him, send him down there for a few months," is used as an alternative. I do recognize that we may come up with a problem with regards to having no place to place this child, but in weighing all the equities I personally have finally resolved that we ought to try the system this bill will implement and, in effect, tell the community that "You must do a lot more than you have been doing to take care of this child at the community level." If we should find that this does not result in the answer, that we have not solved the problem that way, then I think we ought to come back and take another look at it and either reinstitute the law or provide another means.

As I say, in balancing these inequities, I have resolved in my mind that we ought to try to accomplish what this bill seeks to do and see if it may not work. If it does, I think we will be much further ahead of the game in trying to bring about a resolution of trying to handle youngsters, juveniles, who have not actually committed a crime, but who are hard to handle on the community or school level. I would like to see this avenue tried. If it does not work, well then let's come back here and correct it. So, I hope that you will support the bill because I feel that, balancing the equities, it ought to lie with the young person, and tell our community "This is your problem, it is in your hands and don't run to our State penal institutions to try and handle these problems."

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

Mr. KELLAM of Cumberland: Mr. President and Members of the Senate: I would just like to say that it appears to me that the educational people who are worried about this bill have probably misinterpreted what the bill does. As I see it, all it does is require that before a person is sent to jail that he commit a crime, and I think that is pretty good rationale. I see no reason why these boys should be sent to the Boys School just because they seem to be in somebody's hair. I am sure that all of us here would object to being sent to some place of incarceration if we had not committed any crime.

Basically, it appears to be that the one item that was brought up was the matter of truancy and, although truancy is not a problem here, I would hate to think that if we didn't show up on time for a period of time we might run into the difficulty of being locked up some place.

This bill is somewhat akin to previous legislation we have had proposed on the part of the school principals relative to the compulsory school age, which I am sure the body recalls from the regular session. There is a move among many educators that, when they have difficulty with a child,

to remove that child from their presence in order they can devote their time more fruitfully to the remainder of the class. I suppose there is considerable merit to being able to do this, but I don't feel that being able to ship the boy off to some place of incarceration should be the answer. If there is difficulty, then there has got to be some other way of handling it. I would certainly be very much in favor of the passage of this bill.

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

Mr. LOGAN of York: Mr. President and Members of the Senate: There is one aspect of this proposed action which does disturb me a great deal, and that is that it takes a good deal of discretion away from the courts. At the present time the judge has this half-way measure available to him in the case of a juvenile delinquent. If this bill is passed it won't be available.

I am afraid too that if you have a youngster in town that is a problem, the police know that he is a problem, they know all about him, that if they don't have the Boys Training Center available to them then they might birddog this kid and drive for a conviction. Then, of course, he has a record following him.

Furthermore, this bill would empty the juvenile offenders that are now in the Training Center and, of course, prevent more from coming there. What is going to happen to them? They are going back to the same old environment that got them there in the first place. Thank you, Mr. President.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I am sure that as we have sat here today listening to the various explanations given on this bill that those of us who are not legally oriented realize more and more that this is a social problem, and it is not a legal or judicial problem, and I think that it is the viewpoint that we have got to use at this time.

I can assure the members of this Senate that if they were to call the principals of their junior high schools, and the principals of their high schools, that they would get a viewpoint from the people that are working in the community with these young people. We are not talking about policemen, and we are not talking about the judges, we are talking about dedicated people in your community who are trying to straighten out the problems with the young people of today before they become criminals.

I was impressed in the discussions with these people that they are very, very concerned and that they are at the working level with these young people. They are trying to get them before they get into our judicial system, before they get into our penal institutions. I can assure you that if you do talk with your people back home this is the viewpoint that you will get. I would request a division, Mr. President.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS of P e n o b s c o t : Mr. President and Members of the Senate: I don't want to belabor this point, but Senator Beliveau from Oxford and I have been having a side discussion — perhaps we shouldn't have — but I would like to point out an actual problem to you. Perhaps if you can answer my problem that I have had to undergo this past year, maybe I can see the wisdom behind the arguments of Senator Beliveau of Oxford.

The point in question: A young girl, fourteen years old, who is taken to school by her father, is let out at the front door and goes out the back door and joins friends for the rest of the day. In the evening hours, she meets with several boyfriends and doesn't come home until four o'clock in the morning, or five, or maybe she doesn't come home at all. The parent does all he can to try to reprimand this child, to try to correct this child. She is taken to a private school; she runs away. She is taken to a psychiatrist, a

psychologist, and neither one of them can cope with her, on a part - time basis that is. What do you do with a child like this? Do you wait until they commit a crime so that our society can bring help to them? We just don't have a place to situate a child like this except Stevens and the Boys Training Center.

Until I am given a solution of what you can do with a child of this type — and it is not the child that gets in your hair, the child won't do the dishes that we are talking about — we are talking about a child with serious problems, very serious problems. This is the child that we are concerned with. I invite each and every one of you to visit these institutions — Stevens is only a five - minute drive away from here — and see some of these students for yourself and visualize the problems that they have had. This is not the child as I say, that just won't listen to you or won't do the dishes when they are supposed to; you are talking about a child with very serious and severe problems and, until I am given an alternative, I have got to see that these children get the best care at this time and I am convinced it is where they are now. Thank you.

the PRESIDENT: The pending question before the Senate is the Enactment of Bill, An Act Relating to the Commitment of Juveniles at Juvenile Institutions.

Thereupon, this being an emergency measure and having received the affirmative vote of thirteen members of the Senate, with seventeen Senators voting in the negative, and thirteen being less than two-thirds of the entire elected membership of the Senate, the Bill Failed of Enactment in non - concurrence.

Sent down for concurrence.

The President laid before the Senate the third matter tabled earlier in today's session, by Mr. Holman of Franklin:

Bill, "An Act to Permit Probable Cause Arrest on Marijuana Misdemeanor Violations" (H. P. 1375) (L. D. 1724).

Pending—the motion by the Senator from Cumberland, Senator

Kellam, to Recede and Concur with the House.

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

Mr. LOGAN of York: Mr. President and Members of the Senate: In the earlier debate on this bill, I posed a question to any member of the Judiciary Committee which I would really like to have answered. The question is: If this bill is passed, how are the police ever going to get a conviction? I will frame the hypothetical situation once again: A group has broken into a summer camp, or somebody's apartment or something, and are smoking marijuana, the police on the basis of probable cause enter, and at the first sound of noise everyone throws their cigarette onto the floor. Nobody is in possession, and since under Committee Amendment "A" being present isn't an offense, how are you ever going to arrest anybody?

Now, under present law a person must knowingly be present. This in itself tends to emasculate it somewhat and make it difficult to enforce, but it does eliminate the situation where you are at the high school dance and somebody is smoking some weed in the wash-room, and you can't arrest everybody in the building which, of course, is the type of extreme case that is sometimes pointed to. But I would like to know how with this Committee Amendment, where it takes out being present, how the police are ever going to arrest anybody?

The PRESIDENT: The Senator from York has posed a question through the Chair which any Senator may answer if he desires.

The Chair recognizes the Senator from Franklin, Senator Holman.

Mr. HOLMAN of Franklin: Mr. President and Members of the Senate: The original bill was introduced as a law enforcement measure to more effectively stop the abuse of the use of drugs. That would simply allow the officers, as I understand the law, to arrest without a warrant. You all know that in misdemeanor cases, unless it has taken place in the presence of the officer involved and he has personal knowledge thereof, he has

to go to the courts and get a warrant and then make an arrest later.

They felt that from a law enforcement point of view in this state that in this exceptional case if an officer had what we would hope would be reasonably certain knowledge that there was an offense being committed, that he could approach — for example, if a child came home and indicated that there was the presence of one of these drugs, and that a certain person had control of it, that the officers would not have to wait until the next morning and get a warrant; that they could go and make an arrest when they saw the person who purportedly had this in their possession. This would make that unnecessary, and they could make an immediate arrest.

But then it was brought up that at the last session there was a bill passed which indicated that anyone who is "knowingly" present when these drugs are used, that they would be guilty of a misdemeanor, even though it was not proven that they necessarily participated. It makes me think of the classical night hunting case, perhaps, approaching the matter objectively, that if there are two or three cars and one person sees a deer after the prohibitive hours and shoots a deer — and there might be someone present who really didn't participate — but our law indicates in a misdemeanor that those who are present are all guilty.

Now, in this case, if the bill is passed without the committee amendment, the law as passed by the last session would remain, and that was that if a person knowingly participates while these drugs are being used he could be found guilty of a misdemeanor. If the law is passed as it is now, it would give the immediate arrest provision to law enforcement people without a warrant. Also, if you vote for this as it comes with the committee amendment, you would be repealing the law that you passed at the last session whereby those knowingly present when this drug is used would be guilty.

So, we have to make up our minds whether to vote to concur

with the committee amendment, or whether to vote for the bill as it was originally introduced with the one amendment by the other body to take out "constables." As a matter of explanation, the reason that "constables" was deleted from the bill was that they felt that ordinarily the constable is the type of person, although there are some who are very excellent law enforcement officers, usually is the type of person who is a ticket taker at a dance or something like that. But they did leave in sheriffs, state police, and so forth, to enforce this.

So, in conclusion, to answer Senator Logan, if we vote as it is, we give the immediate arrest without the warrant in these types of cases, but you repeal the law that was passed at the last session.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from Cumberland, Senator Kellam, that the Senate recede and concur with the House.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY of Cumberland: Mr. President I request a roll call.

The PRESIDENT: A roll call has been requested. In order for the Chair to order a roll call it requires, under the Constitution, the affirmative vote of one - fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted.

An insufficient number of Senators having arisen, a roll call was not ordered.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS of Penobscot: Mr. President, I would like to pose a question through the Chair: Why is it necessary that we at this time repeal that particular part of the law which we enacted at the regular session? Why is there such a great request or mandate that we repeal this law? I haven't heard any argument whatsoever as to the original law which we passed, and I certainly would like to know why we at this time should vote to repeal it.

The PRESIDENT: The Senator has posed a question through the

Chair which any Senator may answer if he desires.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President, to clarify my thinking, the motion before us is to recede and concur with the House.

The PRESIDENT: The Senator is correct.

Mr. KATZ: Mr. President, if we do vote to recede and concur with the House we will be, in effect, repealing the action of the previous session of this Legislature. So if we don't want to repeal we will vote against the motion.

The PRESIDENT: As many Senators as are in favor of the motion of the Senator from Cumberland, Senator Kellam, that the Senate recede and concur with the House will please rise and remain standing until counted. Those opposed will rise and remain standing until counted.

A division was had, Eight Senators having voted in the affirmative, and twenty - one Senators having voted in the negative, the motion did not prevail.

On motion by Mr. Katz of Kennebec, the Senate then voted to Recede from its action whereby this Bill was Passed to be Engrossed.

On further motion by the same Senator, the Senate reconsidered its action whereby it adopted Committee Amendment "A" (H-659) in concurrence.

On further motion by the same Senator, Committee Amendment "A" was Indefinitely Postponed in non - concurrence.

House Amendment "A" (H-675) was Read and Adopted in concurrence, and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Under suspension of the rules, sent down forthwith for concurrence.

On motion by Mr. Katz of Kennebec, the Senate voted to take from the table the second tabled and unassigned matter:

Bill, "An Act to Clarify the Education Laws and Subsidy Payments" (H. P. 1309) (L. D. 1623)

Tabled — February 2, 1970 by Senator Katz of Kennebec.

Pending — Passage to be Engrossed.

Thereupon, the Bill, as Amended, was Passed to be Engrossed in non-concurrence.

Under suspension of the rules, sent down forthwith for concurrence.

Joint Order

Out of order and under suspension of the rules, on motion by Mr. Katz of Kennebec:

ORDERED, the House concurring, that the Joint Standing Committee on State Government report out to the Senate a Bill giving special interim legislative investigating committees access to certain records. (S. P. 657)

Which was Read.

On motion by Mr. Hoffses of Knox, tabled until later in today's session, pending Passage.

On motion by Mr. Hoffses of Knox,

Recessed until 5 o'clock this afternoon.

(After Recess)

Called to order by the President.

Out of order and under suspension of the rules, the Senate voted to take up the following:

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

Bill, "An Act Prohibiting Dumping of Out-of-state Waste Matter." (Emergency) (S. P. 645) (L. D. 1820)

In the Senate January 28, 1970, Passed to be Engrossed.

Comes from the House, Passed to be Engrossed as Amended by House Amendment "B" (H-685) in non-concurrence.

Thereupon, the Senate voted to Recede and Concur.

Non-concurrent Matter

Bill, "An Act Relating to Powers and Duties of the Attorney General." (S. P. 588) (L. D. 1743)

In the Senate January 29, 1970, Indefinitely Postponed.

Comes from the House, Passed to be Engrossed, in non-concurrence.

On motion by Mr. Holman of Franklin, the Senate voted to Adhere.

Non-concurrent Matter

Bill, "An Act to Promote Governmental Reorganization and Efficiency." (S. P. 641) (L. D. 1812)

In the House January 30, 1970, Passed to be Engrossed as Amended by House Amendment "A" (H-667) and House Amendment "B" (H-676), in non-concurrence.

In the Senate February 3, 1970, Passed to be Engrossed as Amended by Senate Amendment "A" (S-422) in non-concurrence.

Comes from the House, that Body having Insisted and Asked for a Committee of Conference, with the following Conferees appointed on its part: RIDEOUT of Manchester, DENNETT of Kittery and ROSS of Bath.

On motion by Mr. Katz of Kennebec, the Senate voted to Insist and join in a Committee of Conference.

The President appointed the following Conferees on the part of the Senate:

Senators:

TANOUS of Penobscot
BARNES of Aroostook
CONLEY of Cumberland

Non-concurrent Matter

Bill, "An Act to Clarify the Education Laws and Subsidy Payments." (H. P. 1309) (L. D. 1623)

In the House January 26, 1970, Passed to be Engrossed as Amended by Committee Amendment "A" (H-654).

In the Senate February 3, 1970, Passed to be Engrossed as Amended by Committee Amendment "A" and as Amended by Senate Amendment "C" (S-420) in non-concurrence.

Comes from the House, that Body having Insisted and Asked for a Committee of Conference with the following Conferees appointed on its part: RICHARDSON of Stonington, MILLETT of Dixmont, CUMMINGS of Newport.

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

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: What the other chamber is saying here is that they disagree with the amendment that was submitted by the Senator from

Hancock, Senator Anderson, which pertained to two communities on the same island.

I would move that the Senate insist and join in a committee of conference.

The PRESIDENT: The Senator from Kennebec, Senator Katz, moves that the Senate insist and join in a committee of conference. Is this the pleasure of the Senate?

The motion prevailed.

The President appointed as Conferences on the part of the Senate: Senators:

KATZ of Kennebec
ANDERSON of Hancock
KELLAM of Cumberland

**Committee Reports
Ought to Pass**

The Committee on Natural Resources on

Bill, "An Act Relating to Prerequisites for the Insurance of Mortgages by the Maine Industrial Building Authority, Maine Recreation Authority and the Municipal Securities Approval Board." (H. P. 1464) (L. D. 1838)

Reports pursuant to Joint Order (S. P. 638) that the same Ought to Pass.

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

Which report was Read and Accepted in concurrence and the Bill Read Once.

Thereupon, under suspension of the rules, the Bill was given its Second Reading and Passed to be Engrossed in concurrence.

Under further suspension of the rules, sent forthwith to the Engrossing Department.

Ought to Pass in New Draft

The Committee on Natural Resources on

Bill, "An Act to Regulate Site Location of Development Substantially Affecting Environment." (H. P. 1415) (L. D. 1782)

Reports that the same Ought to Pass in New Draft under Same Title. (H. P. 1458) (L. D. 1834)

Comes from the House, the report Read and Accepted and the Bill, in New Draft, Passed to be Engrossed as Amended by House Amendment "A" (H-691).

Which was Read.

The PRESIDENT: Is it the pleasure of the Senate to accept the Ought to Pass in New Draft Report of the Committee in concurrence?

The Chair recognizes the Senator from Cumberland, Senator Gordon.

Mr. GORDON of Cumberland: Mr. President and Members of the Senate: I would like to call your attention to House Amendment "A." I think that this document is certainly a good document — the original document, I should say. It will serve a very useful purpose insofar as the State of Maine is concerned, but I am not sure in my mind whether this amendment is entirely necessary.

I think here that the State of Maine would be imposing its will on communities which are trying to do a good job, on communities which are zoning and providing themselves with industrial areas that have been properly selected. I, for one, don't like to impose or have imposed on the people some other agency when it is not necessary. I believe in home rule and, if the communities and the municipalities are doing a good job, I think that we should keep our hands off.

I think that in areas where a community cares enough to plan, to zone, I think they are going in the right direction.

I think that this amendment is completely out of order, and I would move that House Amendment "A," H-691, be indefinitely postponed in non-concurrence.

The PRESIDENT: The Chair would ask the Senator to defer his motion until the House Amendment is before the body.

Mr. GORDON: Thank you, Mr. President.

The PRESIDENT: Is it now the pleasure of the Senate to accept the Ought to Pass in New Draft Report of the Committee in concurrence?

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

House Amendment "A," Filing No. H-691, was Read.

The PRESIDENT: Is it now the pleasure of the Senate to adopt House Amendment "A"?

The Chair recognizes the Senator from Cumberland, Senator Gordon.

Mr. GORDON of Cumberland: Mr. President and Members of the Senate: I will present my motion at this time to indefinitely postpone this amendment.

The PRESIDENT: The Senator from Cumberland, Senator Gordon, now moves that House Amendment "A" be indefinitely postponed in non-concurrence.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: The bill with the amendment on it can be boiled down to, in very simple terms, that the location of a refinery anyplace in the State of Maine will be subject to the issuance of a license and approval by the Environmental Improvement Commission. There is nothing else to it but this. The location of a petroleum refinery anyplace in the State of Maine must be approved by the Environmental Improvement Commission. This is the issue. You have to stand up and be counted, and it is just as simple as that.

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

Mr. CONLEY of Cumberland: Mr. President and Members of the Senate: I stand to support the motion of the good Senator from Cumberland, Senator Gordon, with respect to the indefinite postponement of House Amendment "A", and this is my only objection to the bill presently before us.

Just a week or two ago this Senate passed a bill for home rule, and it seems quite ridiculous that today we are now considering taking away the rights of a municipality to be able to decide for themselves as to what type of industry they wish to allow to develop within their community.

It seems to me that the problem we have within the State is really the problem of where we have unzoned communities. The

indefinite postponement of this amendment would have no bearing whatsoever on those communities that are zoned, that have zoning boards and boards of appeal, and it leaves the rights of local control within the communities.

Presently, as I understand it, there are already in existence nine vacancies on the commission that haven't been filled under laws that we passed in the last session and in the previous session. They are unable to fill these vacancies for sanitary engineers. I don't see how we are ever going to be able to fill the vacancies that are going to be needed to enact the current legislation that is before us.

It seems to me that most of the objection is to the fact that they want the entire State included under this particular bill. Actually what we are doing then is actually zoning, but it is selective zoning on a statewide basis.

It is the feeling of all municipal officers in the City of Portland that this bill would be detrimental to them in attracting new industry. We certainly feel that we are competent enough to keep out any industry that would be bad for the environment of the community. For this reason, I support the motion for indefinite postponement of House Amendment "A".

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

Mr. BERNARD of Androscoggin: Mr. President and Members of the Senate: I would rise to oppose the motion of Senator Gordon of Cumberland. I think that on Page 2 of the bill, Section 481, the Findings and Purposes defined here for the existence of this bill are rather explicit.

Now, if we allow various municipalities within the State which now have zoning and planning to make this decision, then we are spreading out the power or the authority that we would be giving under this bill to the commission. I would rather see one state agency with the responsibility to determine what is best for the State.

I can foresee in one particular municipality where industry is in dire need — they also have, by

the way, zoning and planning — where they might be tempted to make as many concessions as possible in order to get a certain industry to locate there.

Now, I am 100 per cent for this bill. As I understand it, the amendment that was passed in the other body, which deals with Section 488 on Page 5, is an item that was brought up for considerable discussion at the meeting of the Committee on Natural Resources and, as I understand it, there was a vote taken where all ten members were unified in crossing this particular part out of the original bill and, apparently due to a slight error in printing, we find it on the document. This is why House Amendment "A" apparently became necessary.

It is unique to note that the good Senator from Cumberland, Senator Conley, just a short while ago was highly opposed to home rule, yet this week he seems to give a rather good explanation of why it should be.

I would ask for a roll call when the vote is taken. I think that Senator Berry of Cumberland has stated the question as to exactly what do we want: do we want it or don't we want it? I think that is the way that the vote has to be taken.

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

Mr. MINKOWSKY of Androscoggin: Mr. President and Members of the Senate: Outside of a refinery, which I doubt very much will be ever considered in my particular area of the State, I think personally that this would have a very, very adverse effect on zoned municipalities insofar as them revealing leads that they might have on potential industries contemplating locating in that particular area. So, I would definitely concur with the remarks made by the Senator from Cumberland, Senator Gordon, that this particular amendment should be indefinitely postponed.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Holman.

Mr. HOLMAN of Franklin: Mr. President and Members of the

Senate: I am sure you all know that the commission does intend to set minimum standards for air pollution as well as water pollution under Sections 584 and 585.

I believe that some of us members of the Senate are having trouble making up our minds, in approaching this real objectively, as to whether or not to completely vote for the bill as it was introduced by going along with Senator Conley's suggestions and voting to not have the amendment to this bill.

There is something that I would like to bring to the Senate's consideration before this vote is taken, and that would be whether or not, if the first proposition was accepted, and that is that the bill was accepted without the amendment, and knowing that the minimum standards have not yet been set for air pollution, whether or not it would be well to have an amendment which would strike out the same wording as the amendment does. In other words, all that amendment does, gentlemen of the Senate, is to say that if a local area has a zoning ordinance that the Environmental Control Commission would not have to issue a permit to an industry which would take over twenty acres, and things like that, in a certain area. It would still have to get a permit if it involved water pollution.

What a compromise amendment might do would be to, rather than use the words of the House Amendment, which strikes out the words that it shall not apply where there is a zoning ordinance, make the legislation strict as it was originally, requiring that there would have to be a permit from the commission meeting the minimum standards of water and air pollution. But after such time as the commission shall have established these minimum standards for air quality, after that time, then it would not be necessary in an area which has zoning to get a permit.

Now, I am in favor of voting for the bill as it is, without the House Amendment, and then I would offer an amendment subsequent to that time which would buy time for the air control to set up their

minimum standards, after which time, and only after which time, would we allow an industry to go into a zoned area. Thank you.

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

Mr. REED of Sagadahoc: Mr. President and Members of the Senate: Whether this bill is going to be a good one or a bad one, I guess only time can tell, but I personally feel very strongly that if the House Amendment is not adopted that all we have done is pass an empty shell.

Now, I sympathize and I realize that the Senator from Cumberland, Senator Conley, comes from Portland, and I come from the Town of Woolwich, but I would present to this Senate that both the Town of Woolwich and the City of Portland are zoned municipalities. The Town of Woolwich passed a zoning bill several years ago. I was a member of the planning board at that time or commission that wrote the thing, and I felt as if in a town such as Woolwich we should have an established lot size, and we should get the people used to the idea that whenever they build something they should get a permit. We set up several little residential areas. We did set up a small business area, and probably 95% of the town we zoned rural. I think that really for our town that was probably adequate. I feel that there are probably a lot of other towns in the State that are zoned pretty much the same way.

What you are doing here, if you exempt these zoned areas, you are deciding the course of development within the State of Maine on a hundred or two hundred voters.

Also, there is no real provision that if an industry comes in and wants to go into a particular area or organized territory in the State, and they are not zoned, there is nothing that says they can't zone to allow them to come in to exempt themselves from the scrutiny of the Water and Air Environmental Improvement Commission.

Now certainly I, and I think a number of members of this Legislature, are concerned about the commission itself, its make-up,

and whether or not it is capable of handling the task that we are handing it in this special session and have handed it in past sessions I think we are all concerned with this, but it seems logical that this is the place where it should be put.

I think there is some fear that every little industry that comes in will have to pass the scrutiny of the Water and Air Environmental Improvement Commission. It states in Section 481, it says "the location of those developments substantially affecting local environments." It seems to me again that this does not mean that they will be looking and granting licenses as far as site location for every industry that comes into an area.

I also feel that a place such as the City of Portland, City of Bangor, City of Lewiston or Westbrook, with what I would consider sophisticated planning boards and zoned areas, if they present to the Water and Air Environmental Improvement Commission good solid evidence and background that the industry that they propose for this particular given area will not substantially do harm to their city or their surrounding cities—and I do believe that the people in the City of Portland will act in their best faith for the future development of that city—therefore, I assume that they would present that evidence to this commission, and the commission would act favorably. I cannot picture them doing otherwise. So, I think that the fear that they have expressed here this afternoon, and probably rightly so, in the long run will prove to be really an unfounded one.

Now, if this doesn't work, if it is proven that there seems to be arbitrary decisions here — and I would also present to you in this bill, on Page 3, "The commission shall approve a development proposal whenever it finds . . ." — in other words, there is definite language in which the commission, if they see a situation which meets these standards, has to approve; they cannot be arbitrary. If this legislation is abused, it seems to me we can come in here during another legislature and change it.

But I personally feel that we should look at the State as a whole, as far as environment and business where there is a substantial chance of hurting that environment, and that every community should be treated alike. If you exempt zoned areas you do not do this. Therefore, I would oppose very strongly the motion to indefinitely postpone this amendment.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Holman.

Mr. HOLMAN of Franklin: Mr. President and Members of the Senate: In the interest of clarity, I would like to point out to the members of the Senate that under the bill, in Section 490, the original bill — not this amendment — that when the minimum air standards are decided, in other words, after the minimum air quality standards and emission standards have been decided, no person may operate any industry which will contaminate the air. All I am trying to do is indicate to the Senate a proposal which would perhaps serve the interests of both parties involved in this discussion.

In other words, if the bill goes through without the amendment, it would allow an industry to go into an area where there is zoning. So, if the Senate votes to pass the bill as submitted, without the amendment, at that point, gentlemen, it would be legal for an industry to go into an area where there is zoning. However, after that I would submit for your consideration my amendment, and this would prohibit an industry going into an area which is zoned until such time as the commission has established their minimum standards of air pollution. Then after that we don't care, as conservationists and members who are in favor of anti-pollution, whether they go into a zoned area or not, because they will still have to get a license which will meet the minimum water standards and the minimum air standards. So, this is a compromise suggestion.

I hate to see the efforts of conservationists and those in favor of anti-pollution wiped out completely because of the amendment being

deleted from the bill, and then the bill going through which would eliminate the prohibition for them going into the zoned areas. So if the amendment is defeated, and the bill is passed, then I would offer an amendment which would be a moratorium, you might say, to prevent business from going into a zoned area until such time as the air standards were submitted. Thank you.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I would like to emphasize what Senator Bernard of Androscoggin said, and that is that the unanimous committee report did not include the language that is in the bill and which will be removed by the amendment. Your committee did not want that language in. It was an error when the final draft was being prepared in these rather hectic last minutes, and this was a mistake which we regret. So the bill, as reported out by the committee, would call for the passage of this amendment.

It seems to be the fashion right now to be debating amendments we don't have before us, so I must say that the amendment of Senator Holman of Franklin would completely emasculate the bill and make the legislation worthwhile, just so we put everything in our proper perspective.

Once again, if you are voting for the amendment, you are going to vote for licensing of petroleum refineries anyplace in the State; if you vote against the amendment, you have an empty shell. I urge you to vote "No" on Senator Gordon's motion.

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

Mr. KELLAM of Cumberland: Mr. President and Members of the Senate: It appears to me that my good friend, Senator Berry from Cumberland, is oversimplifying this particular matter. I don't believe that everyone who votes for or against a particular amendment automatically becomes either a scoundrel or an angel, depending

upon how you look at the amendment.

It appears to me that in the enlightened times of this Legislature and past Legislatures we have tried to encourage zoning, and in many of our municipalities we do have zoning laws, we do have very active planning, we have a situation where a great deal of money is spent in order to protect the environment in these municipalities, and it seems to me that some chance should be given to see how well all that effort will work after this bill is passed. I would say that we should defeat this particular amendment and at least see if all the effort that has gone into the zoning and planning in the various municipalities, which have devoted the time and money, to see how that is going to provide for the future.

I am interested in looking at the amendment that the Senator from Franklin has proposed, and possibly that is a way out of this particular problem. It seems ridiculous to me for all of us to sit here and all want to have a good conservation measure passed, and yet not be able to do so, due to this one particular problem. I feel if there is any reason to believe that there is going to be a mad rush for zoning or some type of a subversion of the bill, that that could be taken care of another method by virtue of possibly putting a time limit on it or some other way. But, in any event, the municipalities that have zoned and have done a good job should be allowed to rely upon that zoning and not have to have all their efforts be of no particular use in relation to this particular field. So, I would support the amendment. I beg your pardon, at this late date I don't know what I would do, but when I get around to voting I will support Senator Gordon. Thank you.

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

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: I rise in opposition to the motion. I have to admit that in reading this bill and looking into

its implications, it requires an awful lot more guts to vote for this than we usually are required to have. It is a very sweeping bill. There is history in the making here, and I have a feeling that we are going along to a great extent on faith, but I think it is faith that is well placed. If we are going to take this very substantial step, I think we ought to take it all the way and vote against the motion to indefinitely postpone the amendment.

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

Mr. CONLEY of Cumberland: Mr. President and Members of the Senate: I would just like to pose a question to the good Senator from Kennebec, Senator Katz. My mind is befuddled, as the good Senator from Cumberland, Senator Kellam, said, at this late hour of the day, but I wonder if the Senator from Kennebec, Senator Katz, could inform me as to whether the municipality of Augusta is zoned or not?

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question through the Chair which the Senator may answer if he desires.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President, no.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from Cumberland, Senator Gordon, that House Amendment "A" to Bill, "An Act to Regulate Site Location of Development Substantially Affecting Environment," be indefinitely postponed in non-concurrence. A roll call has been requested. In order for the Chair to order a roll call, under the Constitution, it requires the affirmative vote of one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question before the Senate is the motion of

the Senator from Cumberland, Senator Gordon, that House Amendment "A" be indefinitely postponed, in non-concurrence, to Bill, "An Act to Regulate Site Location of Development Substantially Affecting Environment." A "Yes vote will be in favor of indefinite postponement of the Amendment; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Boisvert, Cianchette, Conley, Duquette, Gordon, Hanson, Holman, Katz, Martin, Minkowsky, and Peabody.

NAYS: Senators Anderson, Barnes, Beliveau, Bernard, Berry, Dunn, Greeley, Hoffses, Kellam, Letourneau, Levine, Moore, Quinn, Reed, Sewall, Stuart, Tanous, Violette, Wyman, and President MacLeod.

ABSENT: Senator Logan.

A roll call was had. Eleven Senators having voted in the affirmative, and twenty Senators having voted in the negative, with one Senator absent, the motion did not prevail.

House Amendment "A" was then Adopted in concurrence and the Bill, under suspension of the rules, given its Second Reading.

Mr. Hoffses of Knox then presented Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-427, was Read.

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

Mr. HOFFSES of Knox: Mr. President and Members of the Senate: This amendment relates only to the development for the excavation of natural resources in which substantial investments have already been made. Actual construction of a plant — to the best of my knowledge, the only development of this type that can qualify for this exclusion, as defined by this amendment, is Knox Mining Corporation.

Knox Mining is a wholly owned subsidiary of Basic Incorporated. It has in the past ten years spent a great deal of money in Knox County exploring for minerals. It presently has plans for the development of a mine in the town

of Warren to extract nickle and copper. This company has acquired land in a wooded area between Warren and Union where it planned to erect a plant for the processing of ore prior to the shipment to an out-of-state smelting plant. In the past few years they have spent two million dollars in the acquisition of land, in drilling and exploration, and in advance royalties for land lease. Also, in the expensive studies to be determined if the ore could be processed from the raw state into a usable product, and to determine the size and design of a manufacturing plant.

The bill, as drawn, requires that the development fit harmoniously into the existing natural environment, not adversely affect either the scenic character or natural resources. I submit that no mining operation would be able, by its nature, to meet those requirements.

As I have previously said, the proposed operation in Warren is in a wooded area, it is off the main woods leading from Union to Warren, it is some four or five miles from the Village of Warren, and there are no industries or homes in the immediate neighborhood of the operation.

I would also remind the members of this Senate that should this amendment be adopted the company must still comply with existing law before it can operate. It must obtain a license from the Water and Air Environmental Commission before it can use the water from the Georges River in its plant. To obtain that license it must satisfy the commission that it will return the water to the river without lowering the classification of the water. It will also be subject to the air pollution laws. In addition it must, prior to operation, file with the Mining Commission a plan to provide for the reclamation of the land after the completion of its operation, which plan must be approved by the Mining Commission.

Mr. President and Members of the Senate: I am as concerned as any member of this legislature about the problems of controlling our environment, and if I thought

that this amendment would in any way add to those problems I would not offer it. I do believe that it is only fair that this company which has spent, as I said, some two million dollars before this law was proposed, should have the opportunity to go forward with its plans, subject to the compliance with the existing laws. I, therefore, urge the adoption of this amendment.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: The amendment proposed by the Senator from Knox, Senator Hoffses, is really a little more than an expansion on the language in 488. He has stipulated in his amendment that feasibility studies have been conducted, that land has been purchased, and that studies have been made for the size and design of a manufacturing plant. The existing language in the bill says that such an operation is exempt. It says, "This chapter shall not apply to any development in existence or in possession of state or local license or under construction, nor shall it apply with respect to any development which has been under way by January 1, 1970."

Now, I have heard about the problems down here in Knox County, and the matter was taken up by all legal people involved here and it was felt that they in no way, shape or manner were affected by this. This is a quarrying operation, in essence. It is not involved in the pollution of air, such as a refinery is. Accordingly, it would seem that this would be perhaps for somebody's peace of mind or something that it might be desirable on there, but it certainly is unnecessary, and I would suggest that we vote against its adoption.

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

Mr. BERNARD of Androscoggin: Mr. President and Members of the Senate: I, too, rise in opposition to the adoption of Senate Amendment "B". Having been fortunate enough this past year to visit this

particular site on a diving expedition, I witnessed exactly what is going on up there, and it comes to mind that in the manipulations of exploration, whether it be on land or under water, that some companies have a rather large tax advantage. In other words, the figure of two million dollars was mentioned and, in writing this off on some company's income taxes, the figure comes out so that actually it cost them approximately fifteen cents on a dollar. Consequently, I don't feel that this company is hurting that much, if someone is going to put any weight on a figure of two million dollars.

But, as I gather it, from what I have just heard from the Senator from Knox, Senator Hoffses, he has said that the company can live with the regulations now on the books. Therefore, I wonder why we need to add this amendment to the present bill. I can't see it, and I would oppose the motion to adopt Senate Amendment "B".

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

Mr. HOFFSES of Knox: Mr. President and Members of the Senate: I agree with what the good Senator from Cumberland has said, that this may perhaps need further clarification, but judging from the assurance which the good Senator from Cumberland has given to me, and the implied assurance which the good Senator from Androscoggin has given to me, I would feel inclined that they perhaps would, in the event of the adoption of this particular piece of legislation, would come to the aid and support of this mining company down in Knox County if they envision any problems in the expansion of this mining thing. So, in that case, I would reluctantly allow this measure to be voted down.

As a matter of fact, Mr. President, if I am in order, I would withdraw my amendment.

The PRESIDENT: The Senator from Knox, Senator Hoffses, withdraws his amendment.

Is it now the pleasure of the Senate that this bill, as amended, be passed to be engrossed?

Thereupon, the Bill, as Amended, was Passed to be Engrossed in concurrence.

Under suspension of the rules, sent forthwith to the Engrossing Department.

Ought to Pass in New Draft

The Committee on Natural Resources on Bill, "An Act Relating to Coastal Conveyance of Petroleum." (H. P. 1417) (L. D. 1785).

Reports that the same Ought to Pass in New Draft under Same Title. (H. P. 1459) (L. D. 1835).

Comes from the House, the report Read and Accepted and the Bill, in New Draft, Passed to be Engrossed as Amended by House Amendment "A" (H-693).

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

House Amendment "A" was Read and Adopted in concurrence and, under suspension of the rules, the Bill, as Amended, given its Second Reading and Passed to be Engrossed in concurrence, as amended.

Thereupon, under further suspension of the rules, sent forthwith to the Engrossing Department.

Enactors

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

Emergency

An Act Relating to Termination Statements under the Uniform Commercial Code. (H. P. 1370) (L. D. 1719).

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

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: We had a debate on this earlier in the day and I am sorry to say that I was not in my seat.

I have taken a look at Committee Amendment "A", under Filing H-689 through the eyes of a retailer. A retailer, by the way, who will not be affected by this, but who has had some experience in conditional sales contracts.

I think that we have here an atomic bomb where a fly swatter

should be used. I call to your attention that if you buy a refrigerator from Sears and Roebuck on a conditional sales contract, and if at the time your final payment is made Sears does not follow the legal requirement of discharging your assignment they are liable under here for a payment to the purchaser of the refrigerator for one hundred dollars.

Now, I am appalled by this. Perhaps I don't think in big terms, perhaps I am not thinking in terms of five thousand dollar purchases, but believe me, most of the conditional sales contracts in this State are around \$100, \$200 or \$300, and not in the thousands. Is this Legislature saying that any retailer in this State who overlooks the termination of one of these conditional sales contracts is liable for a penalty of \$100? Is this what we are saying?

Also, we are saying here that it is going to cost him five dollars, I believe, to discharge it — three dollars to discharge it. I think this is probably an increase in cost but it certainly is enough.

The thing that is really offensive to me is the question of a penalty of \$100 to a retailer who may use this instrument once or twice a year, or once or twice a month, and is unfamiliar with it.

I have read the rest of the bill and I don't see that it serves the purpose that we intended, so I move that this bill be indefinitely postponed and ask for a division.

The PRESIDENT: The Senator from Kennebec, Senator Katz, moves that Item 8-1 Bill, An Act Relating to Termination Statements under the Uniform Commercial Code (H. P. 1370) (L. D. 1719), be indefinitely postponed and requests a division.

The Chair recognizes the Senator from Franklin, Senator Holman.

Mr. HOLMAN of Franklin: Mr. President, I move that this matter be tabled until the next legislative day. There may be an amendment to this bill.

The PRESIDENT: The Senator is out of order, he is debating a tabling motion.

The Chair recognizes the Senator from Aroostook, Senator Violette.

Thereupon, on motion by Mr. Violette of Aroostook, tabled and tomorrow assigned, pending the motion by the Senator from Kennebec, Senator Katz, that the Bill be Indefinitely Postponed.

Mr. Katz of Kennebec was granted unanimous consent to address the Senate:

Mr. KATZ: Mr. President and Members of the Senate: Might I call to your attention that when we adjourn we will adjourn until 9 o'clock in the morning. I am sure that many of us have pending matters, and I would urge you to take care of your pending matters in advance of the session, which means an early day for all of us tomorrow.

Committee Report House Ought to Pass in New Draft

The Committee on State Government on Bill, "An Act Abolishing Full-time County Attorneys and Increasing Salaries of Certain County Attorneys and Assistant County Attorneys." (H. P. 1303) (L. D. 1616).

Reports that the same Ought to Pass in New Draft under Same Title. (H. P. 1449) (L. D. 1825).

Comes from the House, the Report accepted and the Bill Passed to be Engrossed as Amended by House Amendments "B", "C", "D" and "E".

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

House Amendment "B" (H-684) was Read and Adopted in concurrence and subsequently, House Amendment "C" (H-690) was Read and Adopted in concurrence.

House Amendment "D" (H-692) was Read.

Mr. Tanous of Penobscot then presented Senate Amendment "A" to House Amendment "D" and moved its Adoption.

Senate Amendment "A", Filing No. S-425, to House Amendment "D" was Read and Adopted and House Amendment "D", as Amended by Senate Amendment "A" thereto, was Adopted in non-concurrence.

House Amendment "E" (H-694) was then Read and Adopted in concurrence.

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

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: I have checked all of the amendments and these amendments merely relate to various reports from your delegations in the counties. They have upped and downed the salaries of the various county attorneys and assistants.

In the amendment which I offered a moment ago, it was an amendment that was put on in the House which did not permit the county attorneys and assistants to receive their raise until January 1, 1971, and I removed that provision because everybody else's raise commences on March 1, 1970. I felt this was an explanation that should have been made before. Thank you.

The PRESIDENT: Is it now the pleasure of the Senate that, under suspension of the rules, this Bill, as Amended, be given its Second Reading at this time by title only?

Thereupon, the Bill, as Amended, was given its Second Reading and Passed to be Engrossed in non-concurrence as amended.

Under further suspension of the rules, sent down forthwith for concurrence.

The President laid before the Senate Joint Order H. P. 1461, tabled earlier in today's session, by Mr. Katz of Kennebec:

Pending—Passage.

Thereupon, the Joint Order received Passage in concurrence.

The President laid before the Senate the fourth matter tabled earlier in today's session, by Mr. Bernard of Androscoggin:

Bill, "An Act Relating to Water Quality Standards" (S. P. 650) (L. D. 1828).

Pending—Enactment.

Thereupon, on motion by Mr. Berry of Cumberland, and under suspension of the rules, the Senate voted to reconsider its action whereby the Bill was Passed to be Engrossed.

The same Senator then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-424, was Read.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: The net result of the adoption of Senate Amendment "A" would be to completely rewrite L. D. 1828, which originally was intended to deal with thermal pollution standards, and it would leave in the final bill only Section 10 of L. D. 1828, which deals with a technical count of coliform bacteria for testing purposes and, of course, in no way affects thermal quality. Also, Subsection 2108, which deals with the establishment of spawning beds as authorized and directed by the Commissioner of Fish and Game.

The death, if this be it, of the original bill has occurred because of a failure of everybody to get together on what the federal people would like to have us do within certain specific temperature ranges established by the federal government. Dr. Coombs, the head of the Environmental Commission, says that he would prefer to see this action by us, namely: the replacement of the bill by this amendment. He feels that their existing rules and regulations are strict enough to contain this; that there is the practical certainty that the federal government is going to come up in the not too distant future with an entire new set of thermal regulations. Accordingly, Mr. President, I move the adoption of this amendment.

The PRESIDENT: Is it now the pleasure of the Senate that Senate Amendment "A" be Adopted?

The motion prevailed.

Thereupon, the Bill, as Amended, was Passed to be Engrossed in non-concurrence.

Under suspension of the rules, sent down forthwith for concurrence.

The President laid before the Senate Joint Order S. P. 657, tabled earlier in today's session by Mr. Katz of Kennebec:

Pending—Passage.

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

Mr. BELIVEAU of Oxford: Mr. President, may I inquire of the good Senator from Kennebec, Senator Katz, what the purpose of the order is, what they are intending to accomplish with this?

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

Mr. KATZ of Kennebec: Mr. President, in getting more than one attorney together we get a difference of opinion as to the sanctity of certain State records. This bill, if reported out by the Committee on State Government, would clarify the intent for the legislative committees and subcommittees.

The PRESIDENT: Is it now the pleasure of the Senate that this order receive Passage?

Thereupon, the Joint Order received Passage and, under suspension of the rules, sent down forthwith for concurrence.

The President laid before the Senate the fifth matter tabled earlier in today's session, by Mr. Barnes of Aroostook.

Bill, "An Act Increasing State Tax in Unorganized Territory, Relieving Elderly Persons from Property Tax and to Study the Assessment of Taxes in Unorganized Territory." (H. P. 1406) (L. D. 1762).

Pending—Acceptance of Either Report.

Thereupon, on motion by Mr. Katz of Kennebec, retabled and tomorrow assigned, pending Acceptance of Either Report.

(Off Record Remarks)

On motion by Mr. Hoffses of Knox,

Adjourned until 9 o'clock tomorrow morning.