

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Sixth

Legislature

OF THE

STATE OF MAINE

1973

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Tuesday, April 3, 1973

Senate called to order by the President.

Prayer by the Rev. Cecil A. Jones of Gardiner.

Reading of the Journal of yesterday.

Papers from the House Joint Order

WHEREAS, legislation has been introduced which allows the Board of Environmental Protection to control the effects of erosion; and

WHEREAS, this authority is in part the responsibility of other departments and agencies such as the Soil and Water Conservation Commission; and

WHEREAS, in addition to the above agencies, the Land Use Regulation Commission, the Department of Transportation, Departments Sea and Shore Fisheries and Inland Fisheries and Game also are concerned with erosion; and

WHEREAS, conflicts exist among these authorities as to their individual responsibility respecting erosion control; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Research Committee be authorized and directed to study the subject matter of the Bill, "An Act to Enable the Board of Environmental Protection to Control the Effects of Erosion," House Paper 750, Legislative Document No. 963, to determine whether the best interests of the State would be served by enactment of such legislation and if so, where the responsibilities for erosion control should be properly designated; and be it further

ORDERED, that the Departments of Environmental Protection, Transportation, Sea and Shore Fisheries, Inland Fisheries and Game and Soil and Water Conservation Commission are respectfully requested to provide the committee with such technical advice and other assistance as the committee deems necessary and desirable; and be it further

ORDERED, that the committee report the results of its findings, together with its recommendations and implementing legislation at the next regular session of the Legislature; and be it further

ORDERED, that each agency specified herein be notified accordingly upon passage of this directive. (H. P. 1294)

Comes from the House, Read and Passed.

Which was Read.

Thereupon, Mr. Schulten of Sagadahoc moved that the Joint Order be Indefinitely Postponed.

The PRESIDENT: The Senator has the floor.

Mr. SCHULTEN: Mr. President and Members of the Senate: I rise to make a motion that we indefinitely postpone this joint order which allows the Board of Environmental Protection to have a study referred to the Legislative Research Committee. The reason I do this is that early in the session I introduced a bill myself, L. D. 542, and the purpose of this bill was to create a study commission on environmental laws. This bill, which has not yet been heard, has received much favorable comment from many organizations throughout the state, and very diverse organizations, which have indicated approval of the concept of setting up such a wide-ranging commission.

I would like just to read the statement of fact on this bill because I believe it sets forth the purposes we are trying to attain, and I quote: "The environment of the State of Maine is of primary importance to the citizens of Maine. Various laws have been passed to protect the environment which may have overlapping and conflicting provisions. A study should be instituted to the end of the citizens of Maine having their environment protected to the greatest possible degree without precluding reasonable and compatible development."

I feel that this bill, which has not yet been heard, will cover everything that this proposed Joint Order hopes to do, and I feel that the results would be more meaningful to the legislature and

to the people of the state. I, therefore, move that the Joint Order presented in our journal this morning be indefinitely postponed.

The PRESIDENT: Is it now the pleasure of the Senate that this Joint Order be Indefinitely Postponed in non-concurrence?

The motion prevailed.

Sent down for concurrence.

House Papers

Bills and Resolution today received from the House requiring Reference to Committees were acted upon in concurrence.

Communications

STATE OF MAINE
House of Representatives
Augusta, Maine 04330

April 2, 1973

Hon. Harry N. Starbranch

Secretary of the Senate

106th Legislature

Dear Mr. Secretary:

The House today voted to Adhere to its action on Bill "An Act to Permit Furloughs to Inmates or Prisoners from County Jails" whereby on March 27 it Indefinitely Postponed the Bill and all accompanying papers.

Respectfully,

Signed:

E. LOUISE LINCOLN

Clerk

House of Representatives

Which was Read and Ordered Placed on File.

Augusta, Maine

April 2, 1973

To the Honorable Senate and House of Representatives of the One Hundred and Sixth Legislature:

Transmitted herewith is the Seventeenth Biennial Report of the Maine-New Hampshire Interstate Bridge Authority which is being presented in accordance with Chapter 18, Article VI, Private and Special Laws of 1937.

Respectfully submitted,

Signed:

DAVID H. STEVENS

Chairman

Maine-New Hampshire Interstate

Bridge Authority

(S. P. 555)

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

Sent down for concurrence.

Senate Papers

Health and Institutional Services

Mr. Greeley of Waldo presented Bill, "An Act Appropriating Funds to Facilitate Access to Services Essential for Older People." (S. P. 547)

On motion by Mr. Hichens of York, referred to the Committee on Health and Institutional Services and Ordered Printed.

Sent down for concurrence.

Appropriations and Financial Affairs

Mr. Sewall of Penobscot presented Bill, "An Act to Implement Section 14-D of Article IX of the Constitution of Maine." (S. P. 561)

Which was referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Sent down for concurrence.

State Government

Mr. Brennn of Cumberland presented Bill, "An Act Establishing Drug Abuse Treatment Facilities." (S. P. 562)

On motion by Mr. Speers of Kennebec, referred to the Committee on State Government and Ordered Printed.

Sent down for concurrence.

Election Laws

Mr. Speers of Kennebec presented Bill, "An Act Relating to Petition for Articles on Municipal Ballots and Warrants." (S. P. 563)

Which was referred to the Committee on Election Laws and Ordered Printed.

Sent down for concurrence.

State Government

Mr. Berry of Cumberland presented Bill, "An Act to Effect Economies in Distribution of State Publications." (S. P. 566)

Which was referred to the Committee on State Government and Ordered Printed.

Sent down for concurrence.

Judiciary

Mr. Berry of Cumberland presented Bill, "An Act Relating to Kidnapping of Minor Child." (S. P. 548)

Mr. Tanous of Penobscot presented Bill, "An Act to Correct Errors and Inconsistencies in the Public Laws." (S. P. 554)

Which were referred to the Committee on Judiciary and Ordered Printed.

Sent down for concurrence.

Public Utilities

Mr. Kelley of Aroostook presented Bill, "An Act Relating to Determining Just and Reasonable Public Utility Rates." (S. P. 549)

The same Senator presented Bill, "An Act Creating the Power Authority of Maine." (S. P. 550)

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

Sent down for concurrence.

Health and Institutional Services

Mr. Tanous of Penobscot presented Bill, "An Act Relating to Hospital Administrators in the Department of Mental Health and Corrections." (S. P. 553)

On motion by Mr. Hichens of York, referred to the Committee on Health and Institutional Services and Ordered Printed.

Sent down for concurrence.

State Government

Mr. Richardson of Cumberland presented Bill, "An Act to Create the Maine Veterans' Training Facility." (S. P. 556)

Mr. Kelley of Aroostook presented Bill, "An Act Relating to Legislative Counsel or Agents." (S. P. 557)

Mr. Sewall of Penobscot presented Bill, "An Act Relating to the Maine Industrial Building Authority." (S. P. 558)

Mr. Speers of Kennebec presented Bill, "An Act Relating to Planning Function of the Maine Law Enforcement Planning and Assistance Agency." (S. P. 559)

The same Senator presented Bill, "An Act Relating to Joint Standing Committees of the Legislature." (S. P. 560)

Mr. Richardson of Cumberland presented Bill, "An Act Relating to Legislative Ethics and the Disclosure of Certain Information by Lobbyists and Legislators." (S. P. 565)

Which were referred to the Committee on State Government and Ordered Printed.

Sent down for concurrence.

Transportation

Mr. Greeley of Waldo presented Bill, "An Act to Authorize the Issuance of Bonds in the Amount of Four Million Two Hundred Thousand Dollars on Behalf of the State of Maine to Resurface Certain Highways." (S. P. 551)

Mr. Kelley of Aroostook presented Bill, "An Act to Authorize Bond Issue in the Amount of \$25,000,000 to Make Improvements on U.S. Route 1." (S. P. 564)

Which were referred to the Committee on Transportation and Ordered Printed.

Sent down for concurrence.

Veterans and Retirement

Mr. Kelley of Aroostook presented Bill, "An Act Relating to Investment and Custodial Care of Securities in the State Retirement System." (S. P. 552)

On motion by Mr. Berry of Cumberland, tabled and Tomorrow Assigned, pending Reference.

Committee Reports

House

The following Ought Not to Pass reports shall be placed in the legislative files without further action pursuant to Rule 17-A of the Joint Rules:

Bill, "An Act Establishing a State-wide Open Season on Deer." (H. P. 6) (L. D. 6)

Bill, "An Act Providing for a State-wide Open Season on Deer for Residents and Nonresidents." (H. P. 134) (L. D. 157)

Bill, "An Act Relating to Retirement Benefit from Accrued Sick Leave of State Employees." (H. P. 386) (L. D. 515)

Bill, "An Act to Provide Retailer Reimbursement for Sales Tax Collection." (H. P. 517) (L. D. 682)

Bill, "An Act Relating to Public Utilities Commission Regulation of

Special and Charter Carriers of Passengers." (H. P. 568) (L. D. 747)

Bill "An Act Providing Funds for a Fine Arts Building for the University of Maine at Portland-Gorham." (H. P. 610) (L. D. 808)

Bill "An Act Relating to a Bounty on Unlicensed Dogs in Area Frequented by Deer." (H. P. 919) (L. D. 1219)

Bill "An Act Relating to Financial Reports of School Superintendents." (H. P. 928) (L. D. 1226)

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

Mr. KATZ: Mr. President and Members of the Senate: Before we leave this page, may I direct the Senate's attention to Item 6-6, which was reported out of Committee unanimously Ought Not to Pass. The Committee instructed me at the time to make a brief explanation of the Committee's action.

This bill would have authorized the construction of a Fine Arts building for the University of Maine at Portland-Gorham. It was the feeling of the Committee that, although the need for a building certainly could have been established by the proponents, the very fact that we have a University system with building priorities established by the trustees indicated that the legislature should not impose its judgment and completely circumvent the intent of the system. Consequently, we felt that this building was not recommended by the trustees, we supported the notion of the trustees establishing priorities within the institution, and we reported it out unanimously Ought Not to Pass.

Leave to Withdraw

The Committee on Veterans and Retirement on Bill, "An Act Relating to Service Retirement Allowance for Employees of the Department of Transportation, Maintenance Division." (H. P. 183) (L. D. 225)

Reported that the same be granted Leave to Withdraw.

The Committee on Fisheries and Wildlife on Bill, "An Act Relating to Open Season on Deer in

Northern and Southern Zones." (H. P. 308) (L. D. 410)

Reported that the same be granted Leave to Withdraw.

The Committee on Transportation on Bill, "An Act Creating a Municipal Advisory Committee on Highway Locations." (H. P. 824) (L. D. 1063)

Reported that the same be granted Leave to Withdraw.

The Committee on Transportation on Bill, "An Act Relating to Operation of Motor Vehicles with Accumulations of Snow or Ice." (H. P. 916) (L. D. 1216)

Reported that the same be granted Leave to Withdraw.

The Committee on Judiciary on Bill, "An Act Relating to Appointment and Duties of Bail Commissioners." (H. P. 935) (L. D. 1234)

Reported that the same be granted Leave to Withdraw.

The Committee on Fisheries and Wildlife on Bill, "An Act Exempting Maine Guides from Boat Operator's License Law." (H. P. 959) (L. D. 1269)

Reported that the same be granted Leave to Withdraw.

The Committee on Judiciary on Bill, "An Act Prohibiting Law Enforcement Officers from Purchasing or Consuming Liquor While on Duty." (H. P. 984) (L. D. 1304)

Reported that the same be granted Leave to Withdraw.

The Committee on Taxation on Bill, "An Act Exempting Sales to Inmates from Canteens in State Institutions from the Sales Tax." (H. P. 1005) (L. D. 1325)

Reported that the same be granted Leave to Withdraw.

The Committee on Public Utilities on Bill, "An Act to Amend the Charter of the Bath Water District." (H. P. 1044) (L. D. 1372)

Reported that the same be granted Leave to Withdraw.

The Committee on Appropriations and Financial Affairs on Bill, "An Act Providing for Overtime Pay of State Police and Municipal Police Officers." (H. P. 1080) (L. D. 1403)

Reported that the same be granted Leave to Withdraw.

Come from the House, the reports Read and Accepted.

Which reports were Read and Accepted in concurrence.

Ought to Pass

The Committee on Veterans and Retirement on Bill, "An Act Relating to Retirement of Forest Rangers in the Forestry Department." (H. P. 38) (L. D. 45)

Reported that the same Ought to Pass.

The Committee on Liquor Control on Bill, "An Act Relating to Liquor Licensee Records." (H. P. 354) (L. D. 469)

Reported that the same Ought to Pass.

The Committee on Appropriations and Financial Affairs on Bill, "An Act Appropriating Funds for Replacement of Sea and Shore Enforcement - Research Vessels." (H. P. 452) (L. D. 601)

Reported that the same Ought to Pass.

The Committee on Liquor Control on Bill, "An Act Providing Additional Funds for Maine State American Revolution Bicentennial Commission." (H. P. 484) (L. D. 628)

Reported that the same Ought to Pass.

The Committee on Agriculture on Bill, "An Act Relating to Stop-sale Orders under Maine Economic Poisons Laws." (H. P. 668) (L. D. 873)

Reported that the same Ought to Pass.

The Committee on Liquor Control on Bill, "An Act Permitting Sale of Prepackaged Foods in Taverns." (H. P. 840) (L. D. 1114)

Reported that the same Ought to Pass.

The Committee on Appropriations and Financial Affairs on Bill, "An Act to Appropriate Funds for the Purpose of Creating an Office of Off-reservation Indian Development with the Department of Indian Affairs." (H. P. 976) (L. D. 1290)

Reported that the same Ought to Pass.

Come from the House, the Bills Passed to be Engrossed.

Which reports were Read and Accepted in concurrence, the Bills

Read Once and Tomorrow Assigned for Second Reading.

The Committee on Transportation on Resolve Designating the Bridge Across the Little Androscoggin River at Mechanic Falls as "The Sawyer Memorial Bridge." (H. P. 538) (L. D. 720)

Reported that the same Ought to Pass.

Comes from the House, the Resolve Passed to be Engrossed as Amended by House Amendment "A" (H-145).

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

Ought to Pass — As Amended

The Committee on Health and Institutional Services on Bill, "An Act to Exempt Nonprofit Clubs and Organizations from Food Handling Regulations." (H. P. 798) (L. D. 1051)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-149).

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

Which report was Read and Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read.

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

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I wonder if someone from the Committee on Health and Institutional Services might explain what the bill actually accomplishes and what the amendment does to it.

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

The Chair recognizes the Senator from Cumberland, Senator Berry.

Thereupon, on motion by Mr. Berry of Cumberland, tabled until later in today's session, pending

Adoption of Committee Amendment "A".

The Committee on Transportation on Bill, "An Act to Clarify the Law Relating to Height and Width Restrictions for Motor Vehicles." (H. P. 831) (L. D. 1090)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-150).

The Committee on Liquor Control on Bill, "An Act Relating to Definition of and Licenses of Rectifiers under the Liquor Law." (H. P. 579) (L. D. 768)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-148)

Come from the House, the Bills Passed to be Engrossed as Amended by Committee Amendments "A".

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

Divided Report

The Majority of the Committee on Legal Affairs on Bill, "An Act Relating to Definition of Litter under Maine Litter Control Act." (H. P. 774) (L. D. 992)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1309) (L. D. 1619)

Signed:

Senators:

JOLY of Kennebec
ROBERTS of York
ALDRICH of Oxford

Representatives:

CAREY of Waterville
COTE of Lewiston
SHAW of Chelsea
EMERY of Rockland
DUDLEY of Enfield
FECTEAU of Biddeford
BRAWN of Oakland
CONNOLLY of Portland
FAUCHER of Solon

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

Signed:

Representative:

SHUTE
of Stockton Springs

Comes from the House, the Majority report Read and Accepted and the Bill in New Draft Passed to be Engrossed.

Which reports were Read and the Majority Ought to Pass in New Draft Report of the Committee Accepted in concurrence.

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

Divided Report

The Majority of the Committee on Fisheries and Wildlife on Bill, "An Act Establishing an Open Season on Moose." (H. P. 32) (L. D. 39)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-141).

Signed:

Senators:

GRAFFAM

of Cumberland
ALDRICH of Oxford

Representatives:

MILLS of Eastport
CHURCHILL of Orland
WALKER of Island Falls
DOW of West Gardiner
MORIN of Fort Kent
PARKS of Presque Isle
CAMERON of Lincoln
KELLEY of Southport
GOOD of Westfield

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

Signed:

Senator:

ANDERSON of Hancock

Comes from the House, the Majority report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-141).

Which reports were Read.

Mr. Anderson of Hancock moved that the Senate accept the Minority Ought Not to Pass Report of the Committee.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. ANDERSON: Mr. President and Members of the Senate: First, I want to apologize to the senior Senators in this body for subjecting them to my biennial plea

to save our moose from extermination.

To the freshman Senators, it is my sincere hope that my dissertation may make you realize that the vast majority of people in this beautiful State of Maine are opposed to the slaughter of this noble animal and that you realize that thousands of tourists who come here from other states to take pictures of this magnificent animal in its natural habitat are horrified to think of this proposed slaughter. The Fisheries and Wildlife Department, instead of urging extermination of this noble animal, should be doing everything in their power to preserve and protect them.

On the eve of the hearing of the moose bill the Fisheries and Wildlife Committee entertained a party at the Senator Motel. Two gentlemen from the Fisheries and Wildlife Commission in New Brunswick were guests of our Department. They expounded at length on what an open season had done for them and stressed the urgency of our department holding an open season on moose. Personally, I don't give a hoot what Canada does with their moose. My concern is with the moose in the State of Maine.

I urge my colleagues who have pledged themselves to vote for this measure to change their minds. Do the honorable thing, go to these legislators and explain that you didn't realize the passage of this bill would have such an impact on our society. I feel sure that these proponents of the bill will take it in good grace.

So, Mr. President and Members of the Senate, I am appealing to you today to help me save from extinction one of the continent's most noble animals: the moose, majestic monarch of the forest.

Long before the white man came, the crafty redskin hunted these animals with their crude weapons, not for the lust of killing but to sustain life. The flesh was smoked and stored to keep the spark of life burning when the warmth of the sun had left their hunting grounds. The skins of these life saving animals provided warmth and shelter throughout the long,

cold winters when the drifting snows lay heavy on the forest floor.

The red man was a true conservationist. He killed only that he might live. The white man could have learned much from the Indian, but he would not listen. Now, I ask you, will the moose go like the buffalo? In spite of what anybody says, these animals are not plentiful enough to warrant an open season. They are barely holding their own. Many die of old age, disease, and other natural causes. Many die from impact of cars and trains, but the biggest threat on the road to extermination is the two-legged predator, the poacher. Time and time again game wardens have found these magnificent animals rotting in the woods with only a hindquarter or a choice junk of meat taken.

This animal, as a rule, seems to have no fear of humans. They are many incidents where they have followed closely behind men in the woods; and once their curiosity is satisfied, they amble off about their business. You have many hunters here in the Senate who can corroborate this statement. So you see, with an open season, it would be like shooting cows in a pasture.

These animals are worth much more to the state living than they are dead. They are one of Maine's biggest attractions. Thousands of tourist hunt them with cameras, not bullets. We would be horrified if a bill came into this honorable body to blow up a dam which would put one of our few industries out of business. Is there a difference? I don't think there is.

History repeats itself. In the 102nd Legislature, a bill came before the Inland Fisheries and Game Committee for an open season on moose. I was House Chairman of the Committee. The bill was passed out 9 to 1 — Ought to Pass. I cast the dissenting vote. In lengthy debate, the bill was overwhelmingly defeated. I would remind this honorable Senate that one vote on the side of righteousness is the true majority when right and wrong are at stake.

Mr. President and Members of the Senate: I beseech you to join

with me in saving this noble animal now struggling for survival. It could be our sincere desire to preserve for our children and our children's children and for all posterity the magnificent heritage with which the Supreme Architect of the universe has endowed the State of Maine.

Mr. President and my esteemed colleagues, please.

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

Mr. SHUTE: Mr. President, I move that when the vote is taken, it be taken by the yeas and nays.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Oxford, Senator Aldrich.

Mr. ALDRICH: Mr. President and Members of the Senate: I feel that I have to defend the position of the committee. The report was eleven to one in favor of the passage of this bill.

The evidence was overwhelming in the committee. We spent one afternoon hearing just this one L. D. We went into the committee hearing about 1:30 in the afternoon and got out around 4:30 or 5:00. The evidence was overwhelming that we should have a limited open season on moose.

Now, at the committee hearing the Commissioner of the Department of Inland Fisheries and Game, Maynard Marsh, described himself as an ultraconservative; yet, he is supporting this legislation. The game wardens that I have talked to, they support it. The biologists support it. The game researchers support it, and the sportsmen in Maine support it.

Now, the herd can stand an open season. I hope you realize that we have over 13,000 moose in the State of Maine. The moose herd is increasing and at least three fourths of the herd is in the northern part of the state. Let me point out to you that this will be a controlled—absolutely controlled open season on moose for six days. The legislation provides for seasons in 1973 and 1974 and that is all. No more than 250 permits in 1973; no more than 500 permits in 1974.

Of course, many of us Senators here are not affected nor are our constituents affected by this legislation. The counties substantially affected are Somerset, Penobscot, Piscataquis, and Aroostook and I would like to have this body hear from these Senators, as to how they feel and how their constituents feel in regards to this legislation. Franklin County is affected as far as the northern tip of the county. Washington County is affected as far as the northern tip of that county.

Now, let me list down the counties that are not affected at all by this legislation. There will be no moose hunting in the counties of Hancock, Knox, Lincoln, Sagadahoc, Cumberland, York, Androscoggin, Oxford, Kennebec or Waldo. There will be no hunting in the Baxter State Park. There will be no out-of-state permits issued. You will have to be a resident of this state in order to get a permit. You will have to buy a regular hunting license in order to get this permit. The number of permits will be no more than 250 in 1973 drawn out of a hat, so to speak, by lots.

The statistics presented to the committee from Canada show that no more than half — of those who get permits, no more than half will actually shoot a moose. So we are talking about a possibility of a hundred, a hundred twenty-five moose being shot in 1973, and possibly two hundred and fifty in 1974. You know that certainly there are that many that die each year by disease, old age, being hit by trains, cars, trucks, being poached and being called across the border.

The unfairness of the situation in the northern part of the state is evident by the fact that Quebec has an open season on moose and we do not. You have a little picture before you today, presented by Harry Parks which shows the borderline between Maine and Quebec. In Quebec they can shoot moose and in Maine we cannot. Mind you, we are only talking about a season of six days.

Our moose herd is on the increase, very much on the increase. And as I said before, we

have — the last census was in 1971 and it showed that we had, by conservative figures, 13,200 moose in the State of Maine. Even with this controlled, open season on moose, this would not affect or cut into the increase that we have in the herd annually.

You also have before you the map of the State of Maine that was placed on your desks by Representative Parks. This is his bill. As a matter of fact, he filed it under Rule 6, I believe, in December, L. D. 39. This is not a Johnny-come-lately piece of legislation from Mr. Parks. He feels very deeply about it and I think it is sound legislation. It shows you the areas in the state that will be affected. It is the northern half of the state. It doesn't affect Oxford County. It doesn't affect me, it doesn't affect my constituents. Myself, I would not go and hunt moose up north in any event.

Now, there has been a lot of discussion this morning prior to the session about this open season being requested. I would like to remind you that probably — I would say that probably a minimum of eleven or twelve hours was spent by the committee in discussing this proposed legislation with the people from Canada. Now, I feel that if the committee — if the committee comes out eleven to one in favor of this legislation, if the Commissioner of the Department, Commissioner Marsh, is in favor of it as being good legislation to rid the herd of the diseased and old moose, then I have to support the facts and the evidence.

We have before us a can of moose milk; for what purpose, I really can't understand but anyway, we have it.

There has been talk about a problem that the state is going to have as far as the seal is concerned. As you know, the moose is on the seal of the State of Maine. In the foreground there is water but I do not believe that this means we should not drink water. In the background there is a tree and a forest but I do not believe this means we should not cut a tree or any of the forest.

I believe that the position of the committee is sound based upon the facts of the evidence. I would request that you vote against the pending motion, the motion of my good friend, Senator Anderson, a friend and colleague for whom I have the highest respect but I would request that you vote against his motion. Thank you.

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

Mr. CYR: Mr. President and Members of the Senate: I never intended to speak on this bill because I am not a hunter, I am not a sportsman nor a fisherman. However, I served in the 100 and the 101st legislature on the Fish and Game Committee, at which time I made my maiden speech on this floor here defending the bear bounty and got bloodied quite badly by the former Attorney General, Mr. Erwin. At that time I swore that I would never again speak on a Fish and Game bill. However, this bill here affects quite a bit of my area and I think it is very up-to-date or very apropos at this time. This might solve the meat shortage that we are talking about these days on everybody's mind. This bill here would affect my county thoroughly and I have been asked repeatedly by people in my area to vote and defend this bill and this is what I am doing.

Apparently, we haven't got the same type of moose in our area that they have in Senator Anderson's area. I think he has some tame moose down this way here, they like to have their picture taken. Ours up there are a little wilder than that and they don't stand still long enough to have their picture taken. I observed two of these moose on two different occasions crossing the St. John River into New Brunswick. I can tell you, I certainly wouldn't have chased them close enough to take their picture.

The moose bill — or I should say the problem of this bill goes back to the 103rd Legislature when the 103rd appropriated some money to have a moose survey made or a survey made of the moose that we have in the area. They have

spent already \$30,000 in regards to a moose survey. They have found that in the northern zone of the State of Maine that the moose population is increasing and increasing quite fast. The hunters in the area are also concerned of the competition of the moose with the deer. In our area, the ruggedness of the terrain and the snow depth and everything else seems to favor the moose at the expense of the deer. This is one of the major reasons why they would like to have this limited moose bill. I say limited, you have been told by Senator Aldrich that this would only cover six days and also that this would affect or would have only 250 permits. It would only allow 250 permits. The map that was passed to you by Representative Parks has been amended in half. So instead of five hundred permits, it is amended to 250 permits. In this area there are over 10,000 moose.

The way these permits would be chosen, if you intended to go hunting for a moose, you would file an application with the Fish and Game Department. You would send in your license. This would be put into a drum and then at a public auction, they would pull out 250 names. It would cost you \$25 for the original license and if you were successful in killing a moose or harvesting a moose, I should say — they don't like the word killing — then you would pay another \$25 to have it tagged. They estimate — from the experience that New Brunswick has had, they estimate that about 45 per cent of the permits probably would be successful. So, you would probably harvest the first year 100 or 125 moose.

I stated that I am not a hunter. I don't know anything about hunting but I have heard a lot about the program in New Brunswick and the program has been very successful. It started out in 1960 with 400 permits and in 1972 they had increased it to 2,500 permits. The herd also in New Brunswick has been increasing in spite of the fact that they have had 2,500 permits or hunters chasing them. So, apparently it develops a stronger animal. You have a

healthier herd as a result of it. This has been the experience of New Brunswick. Many of the moose that they harvest in New Brunswick come from Maine. So, why not give our hunters a break here in Maine and allow them this limited harvesting.

I hope that you defeat the motion that is presently before this body to accept the Ought Not to Pass Report.

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

Mr. ANDERSON: Mr. President and Members of the Senate: At the start of the 105th session when this bill was introduced, the moose bill was introduced, there were 5,000 moose reported in the State of Maine. A week later it jumped to 8,000; another week, 12,000; and before the bill hit the floor of the Senate, there were 18,000 moose. Now the good Senator from Oxford, Senator Aldrich, has said that there were 13,000 moose. Evidently, poachers must have killed 5,000 moose because they reported last year there were 18,000.

The Fish and Game Department flew me over the Allagash in Aroostook County last fall. We were in the air two hours. How many moose do you suppose we saw in that period of time? Four, just exactly four moose.

In a news release last week, a warden from Jackman found a big bull moose down, he couldn't get on his feet. He had to destroy him. On closer examination, he found that the moose had been shot with fine shot evidently last fall during hunting season, during bird season. Now, you can picture the agony this moose must have been in through the long cold winter until finally he dropped. Is it any wonder that our deer and moose are rapidly being decimated. Thank you.

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

Mr. CIANCHETTE: Mr. President and Members of the Senate: I feel I should respond to my good friend from Oxford, Senator Aldrich, when he asks that he hear

from Senators in the district as to many moose that we see on our little maps here today.

My response would be this, that I haven't polled my constituents but neither have I ever heard of a moose doing any damage to anyone's property, person or any area of gardens or beehives or anything like this. Without such knowledge and with the opinion that hunters aren't necessarily selective when they are shooting moose — that they are going to shoot just the diseased and old moose to thin out the herd and make them more productive — with the lack of knowledge of a real purpose for allowing a six-day moose season, I would have to support our good friend from Hancock, Senator Anderson and probably understand that the only real purpose might be to raise a few dollars for the department and I don't think this is reason enough to be killing moose in Maine.

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

Mr. SHUTE: Mr. President and Members of the Senate: The good Senator from Oxford has asked those of us who represent some of this boondock country we see before us in this moose map to respond. As with Senator Cianchette, I represent the part of Somerset County which you see there on the map and now an amendment has been offered which would provide 80 permits to shoot 2,463 moose, an accurate count from the biologists I am sure.

You know, I haven't received a single letter on this thing, not one, nor a single telephone call and believe me that hunters in my area are quite vocal when it comes to Fish and Game matters. On a lengthy walk the other day, I was accosted by three friends, all of whom are hunters. Two said, "When the moose bill comes up, I hope you will vote against it," and one said, "I would like to have you vote for it." But he said, "I probably won't be one of the lucky ones to have my name drawn out of the hat." So you see, there is no great human cry. I think this stems right from the biologists, the

Fish and Game Department across the way. They are not held in particular high regard in my area.

I represent the town of Moose River and the west shore of Moosehead Lake. Now, if those two areas go the same way as the caribou have gone, then we will have to rename all of our communities and place names in the state that are named after animals. I am going to go with Senator Anderson's motion of accepting the minority "Ought Not to Pass" Report.

The PRESIDENT: Is the Senate ready for the question? The Chair recognizes the Senator from Oxford, Senator Aldrich.

Mr. ALDRICH: Mr. President and Members of the Senate: If you would like to know where the moose are going, they are going from Maine into Canada. They are being called across the border and they are being slaughtered over there in that country where they have an open season. We adjoin Canada. They have the open season and we don't. This is a fact, they call them across the border and they shoot them.

All I can say is that this committee on which I was assigned, being neither a fisherman or a hunter, heard evidence and testimony for about a dozen hours. Now, if it is the feeling of this body that they do not want to listen to the report, the Majority Report of the committee based upon a dozen hours of facts and evidence, an 11 to 1 report, then I would suggest that we give consideration in this legislature to do away with the committees.

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

Mr. CONLEY: Mr. President and Members of the Senate: I hate to be in disagreement with my friend, the Senator from Oxford, Senator Aldrich, but being sort of a city slicker from Portland, the only thing I know about moose — that is the plural as well as the singular — is that they are a little bit bigger than a breadbox. But in speaking to many people that I know who are hunters and do go out into the woods and talk about moose — and it is obvious that some of these animals do weigh

in the range of over a ton and it just seems to me that again from what the hearsay is, that when people do kill one, they generally take a quarter of it or a hindquarter or two hindquarters and the rest of it is left in the woods. It just seems to me that slaughtering a domesticated animal, as they have become over the last several years, is really something that I just couldn't support.

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

Mr. TANOUS: Mr. President and Members of the Senate: I wish to commend Senator Anderson of Hancock for his wonderful argument this morning opposing this bill as well as Senator Aldrich of Oxford for his maiden speech here this morning. They did a wonderful job.

You know after listening to all of these arguments, I had my mind made up when I came in here to support this bill and to be honest with you, I don't know what I am going to do at this moment because the arguments, pros and cons, are very good. And I do have a couple of questions that are bothering me and I would appreciate it if one of you might take a moment to answer these questions.

First of all, in reading the bill I am confused. It appears that in one section of the bill these licenses or permits may be issued to anyone; and yet, in another section of the law, it seems to indicate that this is going to be restricted to Maine residents and I wonder which is which. Will these permits be — will an individual desiring a permit be able to apply for a permit who is a nonresident of Maine?

The second question that I have is — I forgot what it was. That is the first question in any event, whether it is limited to the people of the State of Maine.

The second question, I would like to know why we removed the one dollar application in the amendment for the permit. This to me was an important part of the bill. Now, I would figure offhand that the state might realize in the area of perhaps \$100,000 with the dollar

fee on the permit. I notice in the amendment that you have removed it and I would like to know why it was removed? Now, perhaps if these two matters were explained, I probably would support the bill. Thank you.

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

Mr. ANDERSON: Mr. President and Members of the Senate: In answer to the good Senator from Penobscot, Senator Tanous, it is just for the residents of the State of Maine. That is the answer to the first question.

The other question, they felt that where they have to pay \$25 for the permit to shoot a moose and then \$25 if they get one, which would make it \$50, and in addition to that, they have to have a regular hunting license. They felt that that was enough.

The PRESIDENT: The pending question before the Senate is the motion of the Senator from Hancock, Senator Anderson, that the Senate accept the Minority Ought Not to Pass Report of the Committee on Bill, "An Act Establishing an Open Season on Moose".

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

Obviously more than one-fifth having arisen, a roll call is ordered. The pending motion before the Senate is the motion of the Senator from Hancock, Senator Anderson, that the Senate accept the Minority Ought Not to Pass Report of the Committee on Bill, "An Act Establishing an Open Season on Moose." A "Yes" vote will be in favor of accepting the Ought Not to Pass Report; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Anderson, Berry, Brennan, Cianchette, Conley, Greeley, Hichens, Huber, Joly, Katz, Minkowsky, Olfene, Schulten, Shute, Wyman and President MacLeod.

NAYS: Senators Aldrich, Clifford, Cox, Cummings, Cyr, Danton, Fortier, Graffam, Kelley, Marcotte, Morrell, Peabody, Roberts, Sewall, Speers and Tanous.

ABSENT: Senator Richardson.

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

The Majority Ought to Pass as Amended Report of the Committee was Accepted and the Bill Read Once. Committee Amendment "A" was Read.

Thereupon, on motion by Mr. Speers of Kennebec, tabled and Tomorrow Assigned, pending Adoption of Committee Amendment "A".

Divided Report

The Majority of the Committee on Judiciary on Bill, "An Act to Eliminate the 5-day Waiting Period for Marriage." (H. P. 1028) (L. D. 1350)

Reported that the same Ought Not to Pass.

Signed:

Sensors:

TANOUS of Penobscot
SPEERS of Kennebec
BRENNAN of Cumberland

Representatives:

KILROY of Portland
WHEELER of Portland
PERKINS

of South Portland
HENLEY of Norway
GAUTHIER of Sanford
BAKER of Orrington
CARRIER of Westbrook
WHITE of Guilford
McKERNAN of Bangor

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

Signed:

Representative:

DUNLEAVY

of Presque Isle

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

Which reports were Read, and the Majority Ought Not to Pass Report of the Committee Accepted in concurrence.

Divided Report

The Majority of the Committee on Liquor Control on Bill, "An Act to Permit the Sale of Beer and Table Wine on Sunday for Off-premise Consumption." (H. P. 184) (L. D. 226)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-146).

Signed:

Sensor:

OLFENE of Androscoggin

Representatives:

FAUCHER of Solon
GENEST of Waterville
RICKER of Lewiston
TANGUAY of Lewiston
KELLEHER of Bangor
CRESSEY

of North Berwick

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

Signed:

Sensors:

FORTIER of Oxford
SCHULTEN of Sagadahoc

Representatives:

STILLINGS of Berwick
IMMONEN of West Paris
FARNHAM of Hampden

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

Which reports were Read.

The PRESIDENT: Is it now the pleasure of the Senate to accept the Majority Ought to Pass as Amended Report of the Committee?

The Chair recognizes the Senator from York, Senator Hichens.

Thereupon, on motion by Mr. Hichens of York, a division was had. Nineteen Senators having voted in the affirmative, and ten Senators having voted in the negative, the Majority Ought to Pass, as Amended, Report of the Committee was Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Senate

Ought to Pass

Mrs. Cummings for the Committee on Natural Resources

on Bill, "An Act Relating to Pollution Control Costs on Construction Projects." (S. P. 301) (L. D. 950)

Reported that the same Ought to Pass.

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

Mr. Minkowsky for the Committee on Education on Bill, "An Act to Authorize Eleven New Regions and Central Aroostook County Region for Vocational Education." (S. P. 110) (L. D. 255)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-56).

Which report was Read and Accepted and the Bill Read Once. Committee Amendment "A" was Read and Adopted and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Second Readers

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

House

Bill, "An Act Relating to Size of Voting Places." (H. P. 895) (L. D. 1182)

Bill, "An Act Relating to Voting Checklists as Public Records." (H. P. 973) (L. D. 1280)

(On motion by Mr. Shute of Franklin, temporarily set aside.)

Bill, "An Act Relating to Community Based Services for the Mentally Retarded." (H. P. 509) (L. D. 674)

Bill, "An Act Relating to Use of Waters of Kezar Lake by Westways Maintenance Corporation." (H. P. 715) (L. D. 921)

Bill, "An Act Authorizing the Department of Environmental Protection to Make Planning Grants to Municipalities for Solid Waste Disposal." (H. P. 631) (L. D. 845)

Which were Read a Second Time and, except for the matter temporarily set aside, Passed to be Engrossed, in concurrence.

The President laid before the Senate the matter temporarily set aside at the request of Mr. Shute of Franklin:

Bill, "An Act Relating to Voting Checklists as Public Records." (H. P. 973) (L. D. 1280)

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

Senate Amendment "A", Filing No. S-57, was Read.

The PRESIDENT: The Senator has the floor.

Mr. SHUTE: Mr. President and Members of the Senate: This is a minor amendment. An amendment was suggested during the hearing on L.D. 1280 regarding the use of checklists following an election. In a move that represents almost unprecedented unanimity, the Executive Director of the Democratic Party, Edward Bonney, and the Executive Director of the Republican Party, Alex Ray, both testified in favor of this bill. It would be beneficial to candidates, beneficial to boards of registration particularly, and the town and city clerks who were present also endorsed this.

This amendment would make it possible for those communities which rely on Title 21 with reference to their local election laws to have the opportunity to have these checklists available to them immediately after an election. The first three words on the bill following the first word "after the three months have" will be stricken from L.D. 1280 in which place we would add, "the time for completion of recounts following any election." This is to permit the opportunity for recounts to take place rather than waiting the three months which would be a normal time for state recounts to have taken place and then to have made the checklists available.

So this is to accommodate the cities who rely on Title 21 for conduct of their local elections.

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

Thereupon, Senate Amendment "A" was Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

House - As Amended

Bill, "An Act Relating to the Marking of Egg-bearing Lobsters." (H. P. 708) (L. D. 913)

Resolve, providing for a Feasibility Study of Marine Resources Development in Washington County. (H. P. 529) (L. D. 711)

Bill, "An Act Relating to Hunting Bear with Dogs." (H. P. 191) (L. D. 230)

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

Senate

Bill, "An Act to Amend the Savings Bank Law." (S. P. 215) (L. D. 631)

Bill, "An Act Revising the Law Relating to Dealers in Securities." (S. P. 372) (L. D. 1098)

Bill, "An Act Relating to Movement of Oversize Loads on Highways." (S. P. 351) (L. D. 1048)

Which were Read a Second Time and Passed to be Engrossed.
Sent down for concurrence.

Senate - As Amended

Bill, "An Act Relating to Fines Levied by the Harness Racing Commission." (S. P. 133) (L. D. 345)

Bill, "An Act Relating to Appointment of Complaint Justices in the District Court." (S. P. 91) (L. D. 237)

Bill, "An Act Creating Regional Library Systems." (S. P. 281) (L. D. 828)

Bill, "An Act Regulating Water Well Construction and Pump Installation." (S. P. 173) (L. D. 428)

Bill, "An Act Providing for the Maine Property Insurance Cancellation Control Act." (S. P. 231) (L. D. 666)

Which were Read a Second Time and Passed to be Engrossed, as Amended.

Sent down for concurrence.

Enactors

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

An Act Relating to Inspection and Licensing of Residential Facilities for the Care, Treatment or

Rehabilitation of Drug Users. (S. P. 256) (L. D. 753)

An Act to Include Operators of Industrial Wastewater Treatment Plants in the Operator Certification Program. (S. P. 478) (L. D. 1534)

(On motion by Mr. Wyman of Washington, tabled and Tomorrow Assigned, pending Enactment.)

An Act Repealing the Law Making Relatives Responsible for Persons Receiving Hospital Care. (H. P. 318) (L. D. 436)

An Act Specifying a Time Limit for Return of Marriage Certificates. (H. P. 809) (L. D. 1055)

An Act Relating to Use and Possession of Spray Paint Cans in State Controlled Areas. (H. P. 1218) (L. D. 1556)

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.

Orders of the Day

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

House Reports from the Committee on Judiciary — Resolution, Proposing an Amendment to the Constitution to Implement the Administration of Justice by Permitting Eight-Man Juries for Trials of Certain Criminal Cases. (H. P. 173) (L. D. 215) Majority Report — Ought to Pass; Minority Report — Ought Not to Pass.

Tabled — March 29, 1973 by Senator Brennan of Cumberland.

Pending — Acceptance of Either Report.

Mr. Tanous of Penobscot moved that the Senate accept the Majority Ought to Pass Report of the Committee.

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

Mr. BRENNAN: Mr. President and Members of the Senate: I am in opposition to that motion. This resolution calls for a constitutional amendment cutting juries in criminal cases dealing with misdemeanors to eight men or eight people. Presently, we have twelve person juries in misdemeanor cases. Perhaps twelve is an arbi-

trary number but it is the number the English speaking countries have virtually always used since the fourteenth century and the tradition has survived because of its practical advantages. It is a number large enough to provide for a reasonable cross section of the population as a whole. It is a number large enough to promote group deliberation free from outside attempts at intimidation. I think it is clear the smaller the jury, the easier it would be to get at a particular juror. It is a number not necessarily advantageous to the defendant, although probably generally; because in some respects, if you say that there is a good chance for a hung jury, you can convince one. In the other regard, if you can convince one to hold out for a conviction, you get another hung jury which means a new trial. So it works a little bit of both ways.

I would like to tell you a little bit about the history of the legislation. It is my recollection at the public hearing not one single person showed up to support this constitutional amendment, not even its sponsor. So apparently there is no great public outcry in the State of Maine for this particular measure. I appreciate that there are some members of the Judiciary that apparently support it, but labeling it just a minor matter because it deals with misdemeanors is really unfair; because if you happen to be between the age of 17 and 26 — I guess we are all safe from that here — and you are convicted of a misdemeanor, you can be sentenced to the Men's Correctional Center for up to three years. That is what an indefinite term is. So we are not dealing with just very very petty matters if we reduce the size to eight, although I would say in honesty that most misdemeanors deal with county jail sentences; but it is possible, and there are young people in the Men's Correctional Center now for misdemeanors, and they can be held there for up to three years.

I can appreciate how bills like this come along. Most people are pretty much frustrated with the criminal justice system, the way

it works in this state or in this country. It is because of that we get bills like this and bills for mandatory sentencing. I would agree with them that the criminal justice system is not working well in this state. We are not delivering justice efficiently, but I say that this is not the answer. I say that the answer is coming along in some other bills that will promote a quicker delivery of justice. Right now in the criminal justice system we are bogged down with interminable delays and duplication that there is really no need of.

There is going to be an argument made that we have upped the fees for jurors. Consequently, it is going to cost more money and that is why we want this bill. I say it may cost more if we pay jurors more but I think it is the price we have to pay for liberty and justice for all the people in this state.

I am not known in this body as a conservative Senator but I am deeply concerned with conserving the rights of the people as guaranteed by the frames of the constitution.

Again, I understand the frustration with the system but this is not the answer. I say that the answer is, for example, merging the District Court with the Superior Court so people only get one trial. I say the answer is if somebody assaults you, that that individual goes to trial next week and not six months from now. I say the answer is that if someone is convicted of a serious felony, that the case is brought to a final conclusion in the State of Maine in 30 or 60 days and not 30 months as is often done under the present system. The answer is not to chip away at our constitutional rights.

I would urge you to vote against acceptance of the Majority Ought to Pass Report in this situation.

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

Mr. ALDRICH: Mr. President and Members of the Senate: I am a former Oxford County Attorney as is the Cumberland County Senator, Senator Brennan from Portland. After you have lived in the courtroom for over a decade,

you see things that give you concern and I would have to stand and support the Senator from Cumberland, Senator Brennan, in his opposition to the motion.

You are going to chip away at the constitutional rights of the individuals in criminal cases from twelve on a jury down to eight on a jury, then down to six. Then, before you know it, we are not going to have a jury. You are just going to have a judge. The jury is the biggest protection that any of us in this state or in this country have. If you ever have observed the Superior Court trials involving criminal cases, the defendant is protected by this jury of his peers and I don't feel that this is the time to erode this constitutional right. Therefore, I have to in good conscience support the Senator from Cumberland, Senator Brennan, in opposing the pending motion.

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

Mr. BERRY: Mr. President and Members of the Senate: I would request that the Secretary be asked to read the signatures on the report.

The PRESIDENT: The Secretary will give the report of the committee.

The SECRETARY: The Ought to Pass Report was signed by Senator Tanous of Penobscot, Mrs. Baker of Orrington, Mrs. Wheeler of Portland, Henley of Norway, Gauthier of Sanford, Perkins of South Portland, Mrs. White of Guilford, Mrs. Kilroy of Portland.

The Ought Not to Pass Report was signed by Senator Brennan, Representative Dunleavy of Presque Isle, Senator Speers of Kennebec, Representatives McKernan of Bangor and Carrier of Westbrook.

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

Mr. TANOUS: Mr. President and Members of the Senate: My good friend, Senator Brennan from Cumberland, and I disagree on this particular provision and I would just like to tell you why we disagree. He has mentioned a few arguments opposing this particular

bill. He has mentioned that some of the judiciaries are in favor of L.D. 215. He is correct and there are quite a few of them including the Chief Justice himself that is in favor of this particular bill.

I am not going to argue that this is going to save money for the people. This may be a consideration to some of you but it isn't a consideration for me, although ultimately I assume that it will save some money for the people. My chief concern in this particular bill — as Senator Brennan has mentioned, he is concerned with preserving the rights of the people and this is my concern equally as well.

Now, this particular bill, if you will note, is a constitutional amendment. This, by law, if enacted, must go to the people. Am I to interpret the remarks of the opponents of this bill as being opposed to sending a measure to the people to let them determine their future in this area of justice? Am I to interpret that they mean that the electorate of our state is not adequate, adequately informed to make such a decision? It is the prerogative of the people to determine whether they want a constitutional amendment. We merely have as a legislature to send it to them to make this decision and I have no fear that the people of the State of Maine will do what is correct. We presented to them two items, very important issues last time and many of you were opposed to these issues from going to the people. Yet, I don't think that one single person here today is disappointed with the outcome of the way that the people of this state handled those two matters.

We have another matter before the Judiciary Committee like today that I am sure that Senator Brennan of Cumberland is in favor of sending to the people to determine their course in this particular area. So, certainly the arguments presented by the opposition seem to lead to the fact that we should not give them the opportunity to vote to amend the constitution if they so desire.

Apparently, there is some concern in this area. The bill has been presented to this legislature for

deliberation and I feel that there has been sufficient argument for such a proposal that we do send this to the people and let them ultimately make the final decision as to whether or not they want to reduce the size of their juries involving — and I remind you — involving misdemeanors only.

I would ask you that you support my motion to accept the Majority Ought to Pass Report of the Committee and permit this matter to be sent to the people ultimately to be decided by the citizens of the State of Maine. Thank you.

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

Mr. BRENNAN: Mr. President and Members of the Senate: Very briefly, if I follow the good Senator, Senator Tanous', statement he says it is a constitutional amendment so it goes to the people, and why not send it to the people? Well, I think if we carry that out to a logical extreme, you are in essence saying that any silly or frivolous thing that comes before this legislature that is called a constitutional amendment, immediately this legislature must not perform or do its duty and meet its responsibilities and immediately send it to the people.

I think we are in a position here to make some judgments that the people are not. I don't think Senator Tanous seriously supports the proposition that every resolve, everything calling for a constitutional amendment should go back to the people. I am sure that if Mr. Tanous checks his own legislative record, I suspect somewhere along the line he has voted against several of these things that go back to the people. Let's call this as we see it. It is a bill that is chipping away at the constitution.

I can tell you as a prosecutor, as far as getting convictions, once an individual is before the court, the jury is impaneled, he has entered the plea of not guilty, theoretically there is a presumption of innocence but that is a farce, it is a myth, it doesn't exist. I think most people sit in that jury-box and they say what is that

individual doing there if he didn't commit the crime. I think if what I say is accurate — and I think it is from my experience, ten years practicing in this business — I think there really is not a presumption of innocence.

Consequently, I think we need all the protections we can get. I think we need those twelve people, particularly in view of the situation where someone can be sent to jail for as much as three years. Again, the answer is not chipping away at the constitution. I agree with the frustrations people have in this state with the criminal justice system. I support the concept of Chief Justice Berger in that light: streamline the system, make the system work, deliver justice quicker.

I, again, urge you to vote against the motion of the good Senator from Penobscot, Senator Tanous. I ask when the vote is taken, it be taken by a roll call.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: I share the concern of my colleague, the Senator from Oxford, and the Senator from Cumberland, and would simply like to state that the jury system is perhaps the basic foundation of our criminal justice system and the protection of the individual from the power of the state and in determining the facts as to whether or not an individual committed a certain crime. I feel that this bill would dilute the jury system in reducing its number from twelve to eight and I would oppose the motion of my good friend from Penobscot, Senator Tanous, for that reason.

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

Mr. TANOUS: Mr. President and Members of the Senate: In reference to my good friend's, Senator Brennan from Cumberland, remarks that we should not vote to send frivolous matters or constitutional amendments to the people, I might add that certainly this bill before us is not a frivolous matter.

It is a most serious matter. I, for one, feel the people of the State of Maine, given an opportunity to vote on this particular matter, will do so in a manner that is required of all of our citizens. I have no fear whatsoever but that they will do what is best for the State of Maine. Thank you.

The PRESIDENT: The pending question before the Senate is the motion of the Senator from Penobscot, Senator Tanous, that the Senate accept the Majority Ought to Pass Report of the Committee on Resolution, Proposing an Amendment to the Constitution to Implement the Administration of Justice by Permitting Eight-Man Juries for Trials of Certain Criminal Cases.

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

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question before the Senate is the motion of the Senator from Penobscot, Senator Tanous, the Senate accept the Majority Ought to Pass Report of the Committee on Resolution, Proposing an Amendment to the Constitution to Implement the Administration of Justice by Permitting Eight-Man Juries for Trials of Certain Criminal Cases. A "Yes" vote will be in favor of accepting the Majority Ought to Pass Report; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Anderson, Cox, Cummings, Fortier, Graffam, Huber, Morrell, Olfene, Peabody, Sewall, Tanous and President MacLeod.

NAYS: Senators Aldrich, Berry, Brennan, Cianchette, Clifford, Conley, Cyr, Danton, Greeley, Hichens, Joly, Katz, Kelley, Marcotte, Minkowsky, Roberts, Schulten, Shute, Speers and Wyman.

ABSENT: Senator Richardson.

A roll call was had. Twelve Senators having voted in the

affirmative, and twenty Senators having voted in the negative, with one Senator being absent, the motion did not prevail.

Thereupon, the Minority Ought Not to Pass Report of the Committee was Accepted in non-concurrence.

Sent down for concurrence.

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

Bill, "An Act Authorizing All Counties to Collect and Dispose of Solid Waste on a Regional Basis." (S. P. 270) (L. D. 795)

Tabled — March 29, 1973 by Senator Conley of Cumberland.

Pending — Motion by Senator Cyr of Aroostook to Indefinitely Postpone.

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

Mr. TANOUS: Mr. President and Members of the Senate: This is the item which was fully debated last week whereby Piscataquis County — I submitted a bill from Piscataquis County to permit contracting with municipalities and this is a permissive piece of legislation and it was subsequently amended so that all counties, if they so desired, could contract with the various communities for solid waste disposal.

I would ask that you vote against the motion of Senator Cyr to indefinitely postpone this matter and permit me to place an amendment on this particular bill which might solve some of the objections which have been raised. I would ask that you vote against that motion and support the moving of this matter along.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: As a member of the County Government Committee, we heard this bill and it was presented to the committee as a Piscataquis County bill. They had a need. They identified a need and the committee reported the bill out "Ought to Pass" and I think it was unanimous. It has been amended now to include all counties.

I oppose the bill in its present form and I would urge you to vote in favor of the present motion of the Senator from Aroostook, Senator Cyr, to indefinitely postpone and the reason is, it deals with solid waste which is, Mr. President and Members of the Senate, a municipal function. Now granted, the municipalities are not going to be able to solve the problem of solid waste which is a very real and substantial problem on their own, within their own municipal boundaries. They are going to have to solve it on a regional basis. But it is still a municipal and not a county government function. In my opinion, Mr. President, the state should be moving away from the expansion of the functions of county government. County government is a form of government which served its purpose in the eighteenth and nineteenth centuries and its form is outmoded and most of its purposes are really functions of the state and should be funded by the state.

This bill is really moving the other way. It is moving in the direction which we should not be moving in; that is, encouraging the expansion of county government. Solid waste is a regional problem, yes, but a municipal problem more importantly. And in my opinion we should not encourage expansion of county government.

I have no objection and had no objection to the bill in the form as it was originally presented from Piscataquis County. They had a specific problem. They got together. They wanted the county to help to solve their problem but this in its present form encourages all the counties to expand without the real reasons for expansion being there. And I would urge a yes vote on the pending question.

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

Mr. TANOUS: Mr. President and Members of the Senate: As I mentioned a moment ago, this is just permissive legislation for counties. It would save money, in my opinion, for the communities and small towns that could not contract on their own or that could not fully

supplement the solid waste disposal in their own communities.

In addition and moreover in this particular point, we did enact legislation in this area in 1971 and it is Section 415, Title 30. That was Chapter 436 of the Public Laws of 1971.

Now, this particular bill is an amendment or a clarification of that. The counties under that particular bill that I mentioned we enacted in 1971 are authorized to enter into contracts which provide for waste disposal and to assess the towns or unorganized townships which are benefited for their share of the cost.

Now, this is a letter which I have received from Ernest Johnson, the State Tax Assessor. He sent along a proposed amendment, because apparently what we enacted two years ago, and this particular bill before you today, is going to clarify the situation and the amendment which he has since sent over will provide for the unorganized townships.

I would ask that you again oppose the motion for indefinite postponement and permit me to place my amendment on this bill. It is really a needed piece of legislation to clarify something which we did two years ago. Thank you.

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

Mr. BERRY: Mr. President and Members of the Senate: I think there is a little confusion now coming up. The basic bill, apparently, has some support. I think there is legislation on the books that may permit area organization for solid waste disposal. I think it might be in order to clarify the situation for everybody concerned that somebody table this for one legislative day.

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

Thereupon, on motion by Mr. Clifford of Androscoggin, tabled and Tomorrow Assigned, pending the motion by Mr. Cyr of Aroostook, to Indefinitely Postpone.

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

Bill, "An Act to Provide Sales Tax Credit on Replacement of Lost or Destroyed Motor Vehicles." (H. P. 564) (L. D. 743)

Tabled — April 2, 1973 by Senator Brennan of Cumberland.

Pending — Motion of Senator Berry of Cumberland to Recede and Concur.

(In the House, Passed to be Engrossed as Amended by House Amendment "A" (H-134).

(In the Senate, Majority Ought Not to Pass Report Accepted). (House Insisted).

Thereupon, on motion by Mr. Conley of Cumberland, retabled and Tomorrow Assigned, pending the motion by Mr. Berry of Cumberland, to Recede and Concur.

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

RESOLUTION, Proposing an Amendment to the Constitution Broadening the Limitation for Revenues Derived from Taxation of Vehicles Used on Public Highways and Fuels Used by Such Vehicles. (S. P. 544)

Tabled — April 2, 1973 by Senator Berry of Cumberland.

Pending — Reference.

(Committee on State Government Suggested).

Thereupon, on motion by Mr. Morrell of Cumberland, referred to the Committee on Taxation and Ordered Printed.

Sent down for concurrence.

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

HOUSE REPORT — from the Committee on Fisheries and Wildlife — Bill, "An Act Extending Open Season on Bear." (H. P. 187) (L. D. 228) Ought to Pass as Amended by Committee Amendment "A" (H-137).

Tabled — April 2, 1973 by Senator Anderson of Hancock.

Pending — Acceptance of Report.

Thereupon, on motion by Mr. Anderson of Hancock, the Bill was substituted for the Ought to Pass

Report of the Committee and, on subsequent motion by the same Senator Recommended to the Committee on Fisheries and Wildlife in non-concurrence.

Sent down for concurrence.

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

Bill, "An Act Creating Aroostook County Commissioner Districts." (H. P. 55) (L. D. 65)

Tabled — April 2, 1973 by Senator Berry of Cumberland.

Pending — Passage to be Engrossed.

Thereupon, on motion by Mr. Cyr of Aroostook, retabled and specially Assigned for April 5, 1973, pending Passage to be Engrossed.

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

Bill, "An Act Amending the Uniform Flag Law." (H. P. 500) (L. D. 653)

Tabled — April 2, 1973 by Senator Berry of Cumberland.

Pending — Passage to be Engrossed.

(Committee Amendment "A" (H-122))

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

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

Bill, "An Act Relating to Risk Sharing Plans in the Field of Property Insurance." (H. P. 189) (L. D. 229)

Tabled — April 2, 1973 by Senator Morrell of Cumberland.

Pending — Motion of Senator Brennan of Cumberland to Recede and Concur.

(In the House, Passed to be Engrossed).

(In the Senate, Indefinitely Postponed).

(House Insisted).

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

Mr. BRENNAN: Mr. President and Members of the Senate: Very briefly, I am not going to go into the debate the last couple of weeks.

This bill calls for providing a hearing before the insurance commission for those denied insurance on their homes. I don't think there is any question that insurance is absolutely necessary on one's home and I would ask again if there is anybody in this chamber who doesn't have insurance on his home?

Under this bill a vehicle could be created. If someone was denied insurance, they could go before the Insurance Commissioner, put on a case; and if he thinks they have got a case, he could order the assignment or the setting up of an assigned risk pool. Now, the reason I am talking on this, last week the good Senator from Cumberland, Senator Morrell, asked whether or not we had any documentation and I say that we have some documentation. I have seven affidavits here and the affidavits read that, for example, "I have been denied insurance by Bradish-Young—" a large agency in Portland, "—because of the fact that I live in a high-risk neighborhood." Signed: John J. White; Terry Ann Lunt, Justice of the Peace, April 2, 1973.

Another one, "I have been denied insurance by Woolworth and Clark Company—" a big agency again in Portland, "—because I live in a high-risk neighborhood." Signed: Mrs. William O. Hartford, 35 Stone Street, Portland, Maine; Justice of the Peace, Terry Ann Lunt, March 31, 1973.

There are five others dealing with the Berman Insurance Agency which is an agency of Merchants Mutual Insurance Company where a Dorothy Cavallaro of Portland was denied insurance. Another one dealing with the Dow-Pinkham Agency in Portland where a Robert J. Lee of 181 Oxford Street was denied insurance. Another one dealing with the Plummer Insurance Agency, also in Portland, where a Dana A. Lewis of 4 Hall Court, Portland, was denied insurance, and again that is before a justice of the peace. Another one dealing with Aetna Life Insurance Company; its agency again, Plummer Insurance Agency, where an Eleanor Wildes was denied insurance. Another one dealing with

the Harmon Agency in Portland. So I would submit that there is substantial documentation. I believe there is more available if anyone really wants it.

The other thing is, I think the need was demonstrated when people in the insurance industry, agents themselves, said that areas are redlined. So I don't think we really need any more confirmation on that. I think the Insurance Commissioner himself supported this.

I honestly think this bill comes down to this factor: I am sure that many of you have friends who are insurance agents. I know and respect many people in the industry. I think most of them are certainly conscientious and very civic minded citizens but we cannot conclude from those friendships that we serve the true interests of the people of Maine when we vote the way our insurance agent friends recommend. Those agents themselves are caught in a dilemma when they lobby against measures such as this, for their livelihood depends on the policies laid down by the giant corporations in Hartford, St. Paul, New York and Baltimore.

However, it is not our duty to act so as to please those corporations. The real test of our service, I believe, in this Legislature is how well we serve the people of the State of Maine. I think this bill provides sort of a clear-cut test. I think voting for this bill is to vote for a hearing; and that is all it does, it provides a hearing for them first and I don't think anybody can deny a hearing is so basic to our due process system of government. It provides a hearing for people, most of them, frankly who are low income and these people, for the most part, have their entire life savings wrapped up in these houses. It gives a them a chance for a hearing to see if they can get insurance. I think voting against this bill is to vote, in effect, for the positions of the giant corporations who are absolutely uninterested in the welfare of the people of the State of Maine.

I cannot understand how this Senate can vote against affording the opportunity for a hearing

before the Insurance Commissioner and if the Insurance Commissioner then finds that people are being pretty much summarily denied insurance coverage on their homes just because of where they live, he can set up a pool so that the insurance companies will have to provide that insurance.

So I would strongly urge you to vote for the motion to recede and concur.

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

Mr. MORRELL: Mr. President and Members of the Senate: I think the Senator from Cumberland paints a very dark picture as to why people vote either way on an issue of this sort. Frankly, I had a call from a primary agency who handles our insurance and he could care less about how I voted or how it went.

Again, I stick to the matter that I spoke to the other day and that is this, that we should pass laws when the need is there and I am going to read briefly just part of a letter from the City Manager of Portland, John Menario: "I do not recall any major problem existing in this city other than an occasional call to my office, perhaps two or three times a year, of a complaint regarding an insurance cancellation. I know this since my staff occasionally asks for information relating to our basic insurance file, and when directed, there usually follows some informal procedures trying to get information regarding the situation. In all honesty, from the knowledge of my office and the frequency of which complaints are received here, I cannot say that it is a widespread problem within the City of Portland."

I categorically refute the claim that you are pretty cold - blooded if you are opposed to this piece of legislation. There are avenues for people who may have a problem to obtain insurance, admittedly at somewhat higher cost which would seem justified; and I, frankly, think that this bill is not a good bill and I would move that we insist.

The PRESIDENT: The Chair would inform the Senator that the

motion to insist at this time is not in order, the motion to recede and concur is the pending motion and that takes precedence.

The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: In reference to the letter from the distinguished City Manager of the City of Portland, I would have to say that in regard to insurance, the City of Portland is absolutely helpless to provide an assigned-risk pool. It has no control whatsoever over insurance and that is why he doesn't get more complaints.

If anything can be done about insurance, it can be done in the halls of this legislature with the governor and the Insurance Commissioner. That is the appropriate vehicle to use to do something about it. It would make no sense for people to complain to City Hall or the City Manager. It is not within their prerogatives. The complaints have to come to us as legislators and that is why we are putting the case on here which is the proper place. Again I would urge you to vote to recede and concur.

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

Mr. TANOUS: Mr. President and Members of the Senate: I hesitate to get up and speak on this issue because I have spoken already too long this morning but it might be pertinent to the question here that Senator Brennan from Cumberland raises. This legislature last time created an Insurance Study Commission, on which I had the dubious distinction of serving as its chairman. Senator Fortier of Oxford was also a member of that particular committee.

We took this particular bill up. This was a matter of our study, I might add, and the pros and cons were fully issued. I might also mention that this was an education for me in the insurance field. I felt like I was going to college all over again. I learned a lot in the insurance area.

This particular bill — in addressing myself to the bill itself, what in effect it would do, it would

permit the Insurance Commissioner for the State of Maine, when he deems it necessary to create a pool system which would be comprised of your companies authorized to do business in Maine and policies that would be refused would have to be placed through this pool system as it is called, it is somewhat of a fair plan — not really, but they refer to this as a fair plan. Now what happens, if you do go into a pool system presently, many communities have property that are borderline as far as coverage is concerned and companies are carrying this. They have divided this up between three and four companies because one company is not desirous of taking a bath if it burns. So they are able to place many of these properties with three or four companies and from the evidence that we heard during that study commission, it seemed that they were answering, reasonably answering the problems of the State of Maine.

Now the danger of having a pool is that many companies will refuse to insure on a regular basis. This is the problem. You will find many properties that are marginal property that companies will insure but if you have a pool system, many of the companies are then going to tell the local agent, well, why don't you put this guy in the pool. Why don't you put him in the pool. What would be the effect of placing these various people that are now on a marginal basis and getting insurance under standard coverage when they are placed in a pool? This will probably double their premiums and this is the bad effect of a pool, that many people would be placed in the pool that they don't feel they should heretofore have been covered on a marginal basis. Now, you are going to increase the premiums of many, many people that own property that are marginal.

Now, rather than this particular bill, our study commission, in reference to Senator Brennan's remarks about a hearing, we came out with L. D. 666 and it has been heard and I guess it is in the legislative process of being enacted. I hate to mention this because somebody might pick it up

and debate it but it is going along smoothly right now and hopefully within the next day or two it will be enacted. And this L.D. 666, I might add to those of you who haven't read it, it does provide — it is an act providing for the Maine Property Insurance Cancellation Control Act and this will guarantee a hearing to anyone who desires a hearing whose policy has been cancelled for certain requirements, a certain number of days to be given a notice. They have an opportunity to apply for a hearing to the Insurance Commissioner. There is all kinds of good guidelines in areas of cancellation. I also have a similar bill dealing with the automotive industry, with automobile insurance.

I am going to vote against this particular bill and support L. D. 666 because since that is my own bill and it does give the vehicle that Senator Brennan from Cumberland is desirous of having.

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

Mr. CONLEY: Mr. President and Members of the Senate: Last week when this bill was last debated, the good Senator from Cumberland, Senator Morrell, said he would like to have some documentation. Obviously, it is very difficult in a short period of time to be able to do the thorough job that we would like to have done.

Senator Brennan did present seven affidavits here this morning and I personally know of several others that could have been picked up today and brought up here just to give further documentation and I don't want to continue to belabor this item but I think that really what we have to really look at and think about again is what happens when someone's insurance is cancelled because of the fact that they live in an urban renewal area, one without insurance. Secondly, the banks usually foreclose on them which creates even a bigger hazard.

As far as whose insurance policies are being cancelled, obviously it is a very difficult thing to learn, because most people again don't know the inner workings of govern-

ment or who to get in touch with. They probably go to another insurance company and get turned down. Mr. Menario is certainly not the greatest authority in the world as to the number of people who lost their insurance in Portland, but I do know that many calls have been made to the City Manager's office regarding this problem. As a City Councillor in Portland I certainly have received my share of phone calls from people, particularly those who reside in my neighborhood that have had their policies cancelled overnight. So again, the bill before us is nothing at all to be afraid of. As the good junior Senator from Portland, Senator Brennan, has stated, it just sets up a fair hearing for someone to try to get coverage and I would just hope that the Senate would vote to recede and concur.

The PRESIDENT: The Senator from Cumberland, Senator Brennan, asks leave of the Senate to speak a fourth time. Is there objection?

Mr. Brennan of Cumberland was granted permission to speak a fourth time.

Mr. BRENNAN: Mr. President and Members of the Senate: Just one point, there is some talk about a bill dealing with cancellation. I think we have to characterize that as a red herring. I think it is obvious that it is hard to get a hearing on a cancellation when you don't have a policy in the first place, that is what we are talking about, getting the policy in the first place.

The PRESIDENT: The pending question before the Senate is the motion of the Senator from Cumberland, Senator Brennan, that the Senate recede and concur on Bill, "An Act Relating to Risk Sharing Plans in the Field of Property Insurance." The Chair would inform the Senate that in the House this bill was passed to be engrossed and in the Senate it was indefinitely postponed.

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 at least one-fifth of those Senators

present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending motion before the Senate is the motion of the Senator from Cumberland, Senator Brennan, that the Senate recede and concur with the House on Bill, "An Act Relating to Risk Sharing Plans in the Field of Property Insurance". A "Yes" vote will be in favor of receding and concurring; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Brennan, Clifford, Conley, Danton, Kelley, Marcotte, and Speers.

NAYS: Senators Aldrich, Anderson, Berry, Cianchette, Cox, Cyr, Fortier, Graffam, Greeley, Hichens, Huber, Joly, Katz, Minkowsky, Morrell, Olfene, Peabody, Roberts, Schulten, Sewall, Shute, Tanous, Wyman and President MacLeod.

ABSENT: Senators Cummings and Richardson.

A roll call was had. Seven Senators having voted in the affirmative, and twenty-four Senators having voted in the negative, with two Senators being absent, the motion did not prevail.

Thereupon, on motion by Mr. Morrell of Cumberland, the Senate voted to Adhere.

The President laid before the Senate the matter tabled earlier in today's session by Mr. Berry of Cumberland:

Bill, "An Act to Exempt Non-profit Clubs and Organizations from Food Handling Regulations." (H. P. 798) (L. D. 1051)

Pending — Adoption of Committee Amendment "A".

Thereupon, Committee Amendment "A" was Adopted in concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

(Off Record Remarks)

On motion by Mr. Sewall of Penobscot,

Adjourned until 9:30 tomorrow morning.