

# 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 17, 1973

Senate called to order by the President.

Prayer by Rev. David Holroyd of Gardiner.

Reading of the Journal of yesterday.

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

Bill, "An Act Relating to Penalty for Death Caused by Violation of Law by Operator of Motor Vehicle." (H. P. 201) (L. D. 274)

In the House April 9, 1973, Passed to be Engrossed as Amended by Committee Amendment "A" (H-165).

In the Senate April 10, 1973, the Majority Ought Not to Pass report Read and Accepted, in non-concurrence.

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

On motion by Mr. Hichens of York, the Senate voted to Insist and Join in a Committee of Conference.

**Non-concurrent Matter**

Joint Resolution Commemorating Law Day, U.S.A. (S. P. 579)

In the Senate April 11, 1973, Read and Adopted.

Comes from the House, Read and Adopted as Amended by House Amendment "A" (H-218), in non-concurrence.

Thereupon, the Senate voted to Recede and Concur.

**Non-concurrent Matter**

Bill, "An Act Relating to Taxation of Farmland." (H. P. 773) (L. D. 1007)

In the House April 5, 1973, Passed to be Enacted.

In the Senate April 11, 1973, Indefinitely Postponed, in non-concurrence.

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

Mr. Fortier of Oxford moved that the Senate Adhere.

Mr. Hichens of York then moved that the Senate Insist and Ask for a Committee of Conference.

On motion by Mr. Richardson of Cumberland, a division was

had. 13 Senators having voted in the affirmative, and 17 Senators having voted in the negative, the motion did not prevail.

Thereupon, the Senate voted to Adhere.

**House Papers**

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

**Communications**

March 22, 1973

To the Members of the 106th Legislature:

The Standing Committee on Health and Institutional Services of the 105th Legislature was directed by Joint Order SP 615 of the 105th Legislature and Joint Order SP 776 of the Special Session of the 105th Legislature to study, review and analyze the operations, personnel, practices and procedures of the Department of Mental Health and Corrections and the Department of Health and Welfare as they pertain to State institutions, to ascertain that Department appropriations are being administered in an effective and productive manner for the welfare of the citizens of the State of Maine.

This report presented by the Minority Committee contains allegations received by us through Peter Bowman, M.D., who has been connected with the State Institutions for over eighteen years.

These allegations are possible violations of the Appropriations Act, Medical Practice Act, State Personnel Law, State Bureau of Psychological Examiners and other Statutes of the State of Maine, and also violation of some amendments to the U. S. Constitution.

Violations, as we understand, perpetrated according to Dr. Bowman, by Commissioner Kearns and Dr. Albert Anderson respectively.

It is recommended, by this Minority Committee, that the office of the Attorney General, the State Board of Registration in Medicine, State Board of Registration in Psychology, State Personnel Board and the Appropriations

Committee investigate the allegations, find the facts and take appropriate action in order to avoid future repetition of such happenings as described in this report.

Representative Roswell E. Dyar and also Dr. D. Santoro has introduced some legislation on L.D.s for consideration by the legislative body. We both believe that such legislation, if passed, will help remedy the situation.

Comes from the House, Read and Ordered Placed on File.

Which was Read.

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

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

Mr. MORRELL: Mr. President and Members of the Senate: Because of my involvement in the oil industry, I would like to be excused, if possible, from voting on the moratorium bill which will be before us later on this morning, and I hope that the Senate will permit me to do this.

The PRESIDENT: The Senator from Cumberland, Senator Morrell, under Senate Rule 24, asks leave to be excused from voting on the moratorium bill.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, a parliamentary inquiry: Has the Senator from Cumberland, Senator Morrell, made an official request to be excused from voting at this time?

The PRESIDENT: The Chair understands that the Senator from Cumberland, Senator Morrell, asks leave of the Senate to be excused from voting on the moratorium issue under Senate Rule 24.

Mr. KATZ: Mr. President, another parliamentary inquiry: Is this subject to the will of the entire body of the Senate and, as such, is it debatable without unanimous consent?

The PRESIDENT: The Senator from Cumberland, Senator Morrell, probably should have waited until the moratorium issue was before the Senate. He asked to

address the Senate under unanimous consent and asked leave to be excused from voting when the moratorium bill comes before the body. The Chair would rule that anyone who wants to speak on it at this time would have to do it under unanimous consent.

Is it now the pleasure of the Senate that, under Senate Rule 24, the Senator from Cumberland, Senator Morrell, be given permission not to vote when the moratorium issue comes before the body.

The Senator from Kennebec, Senator Katz, requests unanimous consent to address the Senate. Is there objection? The Chair hears none. The Senator may proceed.

Mr. KATZ: Mr. President and Members of the Senate: It is an interesting request the Senator from Cumberland, Senator Morrell, makes because he shares a distinction with a good many other Maine people in that to some extent his income is derived from some facet of the oil industry. It is not a unique distinction; he shares it with many, many, many people, even as those of us in the Senate who might be in the insurance business share this distinction with many, many Maine people, as does the legal profession.

As a retailer, I am called upon to discuss and vote on many subjects which involve the retail business and, although there is a question of tourmalines on the calendar for later this morning, usually my discussion does not get that narrowly defined.

But it seems to me the Senate should not grant permission to Senator Morrell to be excused from voting because it would, I think, substantially reduce the effectiveness in the Senate if every time a broad conflict arose — and this is a rather broad conflict — a member were excused from voting.

I applaud the Senator from Cumberland, Senator Morrell, but I would ask that the Senate not grant permission to permit him to abstain from voting on questions such as the oil moratorium.

The PRESIDENT: The Chair will rule that the Senate will not make this decision until it gets

to Item 6-17, Bill, "An Act Providing a Moratorium on Oil and Heavy Industry Development Along the Maine Coast."

The Chair understands the Senator from Cumberland, Senator Morrell, requests unanimous consent to address the Senate. Is there objection? The Chair hears none. The Senator may proceed.

Mr. MORRELL: Mr. President and Members of the Senate: I recognize that you can carry the potential for conflict of interest to an ultimate degree where we would all become completely inoperative in this body. On the other hand, I won't go into the degree to which I am involved in the oil business here, but I have the feeling that it could be easily misconstrued that I do have a conflict of interest, and I further have the feeling that this is an issue of sufficient import to the citizens of Maine that I guess I have to tell you that, although I can't specifically tell you how I would be in conflict, I would feel a great deal more comfortable not to have to participate in it.

So, having said that, I won't speak again on it. Again, I would be grateful if you would permit me to be excused, but I will rely on your judgment in that regard.

## Committee Reports

### House

#### Leave to Withdraw

The Committee on Natural Resources on Bill, "An Act Relating to Municipal Regulation of Land Subdivisions." (H. P. 1187) (L. D. 1531)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the report Read and Accepted.

Which report was Read and Accepted in concurrence.

#### Ought to Pass

The Committee on Business Legislation on, Bill, "An Act Relating to Overinsurance Provision in Health Insurance Contracts." (H. P. 537) (L. D. 719)

Reported that the same Ought to Pass.

The Committee on Business Legislation on Bill, "An Act Relating to Licenses for General

Lines Insurance Agents." (H. P. 804) (L. D. 1053)

Reported that the same Ought to Pass.

The Committee on Business Legislation on, Bill, "An Act Declaring Violations of Home Solicitations Sales Act to be Violations of Unfair Trade Practices Act." (H. P. 925) (L. D. 1223)

Reported that the same Ought to Pass.

The Committee on Business Legislation on, Bill, "An Act Revising the Itinerant Vendor Law." (H. P. 1139) (L. D. 1474)

Reported that the same Ought to Pass.

The Committee on Education on, Bill, "An Act Increasing Indebtedness of Calais School District." (H. P. 1238) (L. D. 1579)

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.

#### Ought to Pass — As Amended

The Committee on Appropriations and Financial Affairs on, Bill, "An Act Providing Funds for Purchase of Tourmaline, Maine's Official Mineral." (H. P. 34) (L. D. 41)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-204).

The Committee on Business Legislation on, Bill, "An Act to Create a Commission to Prepare a Revision of the Insurance Laws Relating to Insolvent or Delinquent Insurers." (H. P. 659) (L. D. 1066)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-200).

The Committee on Business Legislation on, Bill, "An Act Relating to Private Consumer Remedies." (H. P. 725) (L. D. 931)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-199).

The Committee on Judiciary on, Bill, "An Act to Require Certification of Death to be Typewritten." (H. P. 746) (L. D. 959)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-203)

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

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

### **Divided Report**

The Majority of the Committee on State Government, on Resolution, Proposing an Amendment to the Constitution Repealing the Prohibition Against Initiating Legislation to Amend the Constitution. (H. P. 486) (L. D. 640)

Reported that the same Ought to Pass in New Draft under New Title: "RESOLUTION, Proposing an Amendment to the Constitution to Permit Initiative Amendments to the Constitution." (H. P. 1426) (L. D. 1765)

Signed:

Senators:

SPEERS of Kennebec

CLIFFORD

of Androscoggin

Representatives:

COONEY of Sabattus

CROMMETT

of Millinocket

CURTIS of Orono

GOODWIN of Bath

NAJARIAN of Portland

BUSTIN of Augusta

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

Signed:

Senator:

WYMAN of Washington

Representatives:

FARNHAM of Hampden

STILLINGS of Berwick

SNOWE of Auburn

SILVERMAN of Calais

Comes from the House, the Majority report Read and Accepted and the Bill, in New Draft, Indefinitely Postponed.

Which reports were Read

Mr. Clifford of Androscoggin then moved that the Senate Accept

the Majority Ought to Pass in New Draft under New Title Report of the Committee.

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

Mr. KATZ: Mr. President and Members of the Senate: In reading this bill, it seems that we are changing the present method of amending the Constitution, and now upon a two-thirds vote of both branches of the legislature a proposed constitutional change is put out to the people for a majority vote on a referendum.

As I read this — and I would like to be corrected by some member of the Committee—it would be possible for the State Constitution to be amended by a simple majority vote of the electorate under certain conditions. If this is true, I say that it is making the amending process of the State Constitution a little bit too simple.

Maine has been very fortunate in having a simple process already on the books. In some states it requires almost the act of a con-tortionist to get your constitution amended.

I call to the Senate's attention that every session that I have been in this legislature I have successfully passed or sponsored an amendment to the Constitution which ultimately was adopted by the people and became part of our law. I think that our method is extremely simple now. I think it is reflective of the wishes of the people, and I would hate to make the amending process of the Constitution such a simple process as to have a one-time ratification by a majority of the people of the state.

The PRESIDENT: The Chair recognize the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President and Members of the Senate: It would seem to me that if we adopt this constitutional amendment that we are reducing the Constitution to the level of statutes and that we really need no Constitution. Furthermore, it is very obvious that it is not going to be adopted because it only mustered 34 votes in the other branch, so I move in-

definite postponement of this bill and all accompanying papers.

The PRESIDENT: The Senator from Washington, Senator Wyman, now moves that this bill be indefinitely postponed in concurrence. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: The history of the initiative referendum indicates that prior to the early part of this century the people did have the right by initiative referendum to amend their own Constitution, and that right was changed early in this century. It was changed by a technicality so the right no longer existed. This is merely an attempt to bring back to the people their original right to change their Constitution by initiative referendum.

We still would have to have ten percent of the gubernatorial vote to bring it before the legislature. Then it would be up to the legislature to either pass or send it to the people for a vote. So it seems to me it really is bringing us back to where we should be, and that is giving the people the right on initiative referendum to amend their own Constitution. Thank you, Mr. President.

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

Mr. BERRY: Mr. President and Members of the Senate: I was waiting for Senator Clifford of Androscoggin to give his views because I have a great deal of respect for his legal judgment.

I would respond to his statement that the people are entitled to the right of initiative petition by saying that any one of the legislators, of course, is very happy to introduce a bill to change the Constitution. So I really see absolutely no need for this.

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

Mr. SPEERS: Mr. President and Members of the Senate: I would respond to the good Senator from Cumberland, Senator Berry, by stating that it is quite true that any member of the legislature, of

course, may introduce legislation to amend the Constitution. But if that legislation for one reason or another does not pass one or the other of the branches of the legislature, then the people are left with no recourse whatever at the present time to amend their Constitution.

We have had quite a number of situations in the last few sessions of the legislature where legislation has been introduced to amend the Constitution, particularly having to do with the size of the other branch of the legislature, and that legislation, for whatever reason, having failed of passage in either one or the other branches of the legislature, the people are left with no recourse in amending their Constitution.

At the present time they, of course, have a recourse in amending statutes in that they can bring about initiative petitions. And if those fail of passage in the legislature then, of course, they do go to the people themselves for a direct vote on that particular measure.

To say that we are lowering the Constitution to the level of the statutes of the state by adopting the same procedure, I feel, would be erroneous for I think that the statutes at the present time perhaps have a higher regard in our state than the Constitution in that the people themselves have an opportunity, have a method, by which they can bring about direct votes on the laws that they wish to see on the books of the state. Now, how can we say that the people have a right and an opportunity to directly vote on the statutes that they wish to live under and yet do not have that opportunity under the very foundation, the very basic law, under which we live, and that is the Constitution of this state. For that reason, I hope that we oppose the motion of the good Senator from Washington, and I move further to accept the majority report.

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

Mr. WYMAN: 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 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 Wahington, Senator Wyman, that Resolution, Proposing an Amendment to the Constitution Repealing the Prohibition Against Initiating Legislation to Amend the Constitution, be indefinitely postponed. A "Yes" vote will be in favor of indefinite postponement; a "No" vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

**YEA** — Anderson, Berry, Cummings, Cyr, Graffam, Greeley, Hichens, Huber, Joly, Katz, Olfene, Peabody, Roberts, Schulten, Shute, Wyman, MacLeod.

**NAY** — Aldrich, Brennan, Cianchette, Clifford, Conley, Cox, Danton, Fortier, Kelley, Marcotte, Minkowsky, Morrell, Richardson, Sewall, Speers, Tanous.

A roll call was had. Seventeen Senators having voted in the affirmative, and sixteen Senators having voted in the negative, the Resolution was Indefinitely Postponed in concurrence.

#### Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act Relating to Personal Recognizances in Violation of Baxter State Park Laws and Regulations." (H. P. 624) (L. D. 822)

Reported that the same Ought Not to Pass.

Signed:

Senators:

TANOUS of Penobscot  
SPEERS of Kennebec  
BRENNAN of Cumberland

Representatives:

WHITE of Guilford  
WHEELER of Portland  
GAUTHIER of Sanford  
PERKINS of So. Portland

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-202).

Signed:

Representatives:

KILROY of Portland  
DUNLEAVY

of Presque Isle  
HENLEY of Norway  
McKERNAN of Bangor  
CARRIER of Westbrook  
BAKER of Orrington

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

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

Sent down for concurrence.

#### Senate

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

Bill, "An Act Relating to Use of Fire Resistant Materials in Construction of School Buildings." (S. P. 479) (L. D. 1546)

#### Ought to Pass — As Amended

The Committee on State Government on, Bill, "An Act to Establish a State Veterans Home." (S. P. 436) (L. D. 1340)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-78).

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.

#### Ought to Pass in New Draft

The Committee on Appropriations and Financial Affairs on, Bill, "An Act Establishing the Maine Training Fund for Employment in Industry." (S. P. 397) (L. D. 1203)

Reported that the same Ought to Pass in New Draft under New Title: "An Act Establishing the Maine Training Fund" (S. P. 587) (L. D. 1805)



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

#### **Divided Report**

The Majority of the Committee on State Government on, RESOLUTION, Proposing an Amendment to the Constitution Providing for Regulation of Municipal Borrowing by the Legislature. (S. P. 293) (L. D. 840)

Reported that the same Ought to Pass in New Draft under Same Title (S. P. 586) (L. D. 1804)

Signed:

Senators:

SPEERS of Kennebec  
WYMAN of Washington  
CLIFFORD

of Androscoggin

Representatives:

COONEY of Sabattus  
GOODWIN of Bath  
CURTIS of Orono  
STILLINGS of Berwick  
NAJARIAN of Portland  
FARNHAM of Hampden  
CROMMETT

of Millinocket

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

Signed:

Representative:

SILVERMAN of Calais

Which reports were Read and the Majority Ought to Pass in New Draft Report of the Committee Accepted. The Bill in New Draft was Read Once and Tomorrow Assigned for Second Reading.

#### **Divided Report**

Five members of the Committee on Natural Resources on, Bill, "An Act Providing a Moratorium on Oil and Heavy Industry Development Along the Maine Coast." (S. P. 442) (L. D. 1427)

Reported in Report "A" that the same Ought to Pass in New Draft under Same Title (S. P. 588) (L. D. 1806)

Signed:

Representatives:

MacLEOD of Bar Harbor  
HUBER of Falmouth  
BRIGGS of Caribou  
ROLDE of York  
PETERSON of Windham

Four members of the same Committee on the same subject matter reported in Report "B" that the same Ought to Pass in New Draft under Same Title (S. P. 589) (L. D. 1807)

Signed:

Senators:

SCHULTEN of Sagadahoc  
CUMMINGS of Penobscot

Representatives:

SMITH of Exeter  
BERUBE of Lewiston

Four members of the same Committee on the same subject matter reported in Report "C" that the same Ought Not to Pass.

Signed:

Senator:

MARCOTTE of York

Representatives:

PALMER of Nobleboro  
HERRICK of Harmony  
CURRAN of Bangor

Which reports were Read.

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

Mr. SPEERS: Mr. President and Members of the Senate: I am very happy to note that one of the members of this body brought up earlier in this session the question of conflict of interest, because it is, of course, an issue and a question that exists with every single one of us on perhaps nearly every vote we cast in this body.

The good Senator from Cumberland, Senator Morrell, does not wish to delve into the extent with which he was involved in oil interests, but I would like at this point to delve into the extent with which I am involved in oil interests and simply state flatly that I do not feel that I am involved to the extent where it would prevent me from casting any vote on this matter which may be considered a conflict of interest.

Mr. President, a member of my family is employed by one of the largest oil companies in the United States, the Atlantic-Richfield Oil Company, as an ecologist for that company. As an ecologist, his duties and his responsibilities are to advise that company on the effect which the actions of that company may have on the ecology of the areas in which the company

operates. That company has holdings in the State of Maine.

I have not discussed with my father this particular bill. I have no idea what ARCO has in mind for developments within the State of Maine. I have no idea whether or not it has any development planned within the State of Maine.

I do not hold any stock in this company. I have in no way received remunerations for any work done on behalf of this company and I do not feel that casting a vote on this particular issue would be a conflict of interest.

Mr. President, I bring this up at the present time because I am well aware that there may well be some comments made on the part of individuals who may or may not be happy with the way in which I intend to vote on this matter, and incidentally, I have not made up my mind on this particular issue — and am looking forward to hearing the debate on these various reports and, hopefully, will be able to make up my mind after listening to the debate on these reports. But I do not believe that casting a vote will be in any way a conflict of interest. I am a bit disturbed that with these facts being in existence, that by casting a vote on this matter, there may well be innuendoes, there may well be phantom accusations, there may well be some questions raised.

Mr. President, this question of conflict of interest is an extremely serious question and an extremely difficult one. As the good Senator from Kennebec pointed out, there could potentially be questions raised on practically every vote that is cast in this body. But basically, I believe that the people of the State of Maine have sent every one of us here to vote according to our best judgment on the issues that come up before us. If we had to excuse ourselves from voting on all of the issues which potentially bring about a question in someone's mind as to whether or not there is a conflict, then we may find ourselves half of the time in the hallway and the other half of the time here voting on these issues. I don't believe that that is the reason the people of the State

of Maine sent any one of us here to this body.

I don't mean to be in derogation of any of the feelings of any of the other members of this body who honestly do feel that they may have a conflict of interest on this matter, and I commend them for their request to abstain from voting on this matter if and when they do feel that there is an honest conflict. But I have wished to make this statement simply because I do not feel that there is any conflict in my case, and I wish to fully disclose any of the matters that any individual may question in the future as to whether or not there was a conflict.

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

Mr. SCHULTEN: Mr. President, I would move that the Senate accept the Ought to Pass report, L. D. 1807. This is Report "B", and I would speak briefly to my motion.

The PRESIDENT: The Senator from Sagadahoc, Senator Schulten, moves that the Senate accept the Ought to Pass in New Draft Report "B" of the Committee.

The Senator has the floor.

Mr. SCHULTEN: Mr. President and Members of the Senate: I urge the acceptance of Report "B", L. D. 1807, perhaps for many varied reasons but, perhaps in my own thinking, the most important or compelling reason I have done this is that I feel that the State of Maine can no longer afford the luxury of the highest unemployment rate in New England. I also note that the unemployment rate in the State of Maine is two percent over the national average. These are the things that really concern me.

Now, the original proposal that was heard by the Natural Resources Committee proposed or suggested an 18-month moratorium on oil development, oil refineries in the state. I have put my name to Report "B," which basically differs from the original proposal by the good Senator, the distinguished Senator from Cumberland, Senator Richardson. I have changed this report only to the extent that I have put a terminal

date on the moratorium bill of January the 15, 1974, instead of an 18-month moratorium as originally suggested.

I feel that if we take the past as any criteria of what we might expect to happen in the future, that this 106th Legislature will be in session in January of 1974 and at that time will have an opportunity to delve into this matter again, that they will have an opportunity to make some definitive, exciting decisions that will affect and help our people in the state. In other words, my thinking all along has been that an 18-month moratorium really would do nothing more than to impose this continuing cycle of the horrors of poverty on many of our people in the state. I think if we even considered passing such a long-term moratorium it would be the most irresponsible statesmanship on our part.

As the Senator from Kennebec, Senator Speers, has just said, perhaps I will paraphrase it, but we are sent here to do the best we possibly can for the people of the state. I feel that we are sent here for that reason. We are sent here to help them, to help the economy, and not restrict them.

Naturally, if I say let us have a short-term moratorium instead of one of 18 months, the obvious question is: well, what are the reasons for this? Why should we consider it? I feel that there are some alternatives here. I feel that we have the Maine Supreme Judicial Court that has been or should be actively interested in this problem. Certainly I am not here to cast a finger of criticism at the court, but it would seem to me that they have had ample opportunity to come up with a decision. I believe it was almost a year since they took this matter under advisement.

I feel that we have on our books today the Site Selection Law. Now, the Site Selection Law, I feel, is a very strong instrument to protect the State from the very situation such as this, but if we hide behind long-term moratoriums, we honestly will never know

whether there are any teeth in this law. We will never be able to derive the benefit from all the agonized decisions that went into making this law part of our State of Maine operations.

Also, recently, there was an article in the paper that talked about the possibility of a dry cargo port in Washington County. Now, the small amount of information that I have been able to gather since I read this news report has not been enough to convince me that this is a really dynamic project on the part of pulp and paper companies, but it is something that would provide employment, it is something that would keep our people earning good wages, and certainly, as such, deserves further consideration and an opportunity for the people to make up their minds whether or not this is what they want.

I don't know what we are going to do in January, 1974, as I have just said; but I do feel that then we would have an opportunity to do something to help the job situation, the employment situation, in the State of Maine. I feel that while neither side will be happy with a short-term moratorium, at least it is a short enough duration that both sides would stand still for it. I feel that in the interim it is up to the legislature to find some way to help our people to get jobs, good paying jobs, to provide for the future of this state, and also to protect our natural resources. But to put on our books, a long-term moratorium, I feel would be to cast our people into economic peonage, and that really these people deserve better of us. As their elected representatives, I feel we could accomplish more by the short-term moratorium as outlined in Report "B" of L. D. 1807, and I would ask that you support this report.

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

Mr. RICHARDSON: Mr. President and Members of the Senate: After giving it a great deal of thought and discussing the matter

with other members of the legislature, including some of you, I have decided to cast my vote with the good Senator from Sagadahoc, Senator Schulten. In doing so, I would like to indicate briefly, if I may, the reasons why.

I sincerely hope that the Senator from Kennebec, Senator Speers, was perfectly candid with you, as I am sure he was, when he said that he hadn't made up his mind. I, in all sincerity, really hope strongly that what I say here today can make sense and you can see what I think is a sensible and moderate position with respect to oil on the Maine coast.

In 1970, the Maine Legislature enacted in the other branch by a vote of 134 to 1 a coastal conveyance petroleum law which had several major features. One, it provided that a person who spilled oil, caused the oil spill, would be absolutely liable without reference to concept of fault. It cured a then existing defect in the federal law which required proof of virtually gross negligence.

Coupled with absolute liability was unlimited liability to cure a doctrine in the admiralty law that permits the owner of a vessel to declare the amount of the vessel, and limit the amount of damages recovered against him, the owner, to the value of the vessel. Our law here in Maine eliminated that and required the person causing the spill to be liable to the full extent of the damage caused. This statute which received national recognition, favorable editorial comment in the New York Times and elsewhere, imposed vicarious liability on the terminal operator, imposed liability on the terminal operator on the moth and the flame concept, for the excess beyond which the vessel operator was not able to pay in damages. It set up a coastal protection fund in the amount of \$4,000,000.

This law, immediately after its overwhelming adoption by this legislature — and I might note parenthetically, that this was the result of a splendid bipartisan effort by both parties, with leadership from the Governor, that this legislation passed. Immediately

thereafter, the oil companies brought a challenge. Now, the State of Florida copied our coastal conveyance of petroleum law almost verbatim, and that law was challenged in a three-judge federal court proceeding in the State of Florida. That case, called the Askew case, is now before the Supreme Court of the United States on a very narrow issue, that is, constitutional preemption.

Now, what does all this wrangling and legal maneuvering mean? It means that those who would transship oil and refine oil on the coast of Maine have effectively imposed a moratorium on our ability to protect the coast of Maine. The coast of Maine is, so far as state action is concerned, as unprotected today as it was in 1870. The purpose of a moratorium is not to say "no oil, never." It is to say, "Let us have the coastal conveyance petroleum bill and the Sites Selection Law which were originally designed as dual intention and purpose measures, to protect Maine's coast. Let us have those laws, and then let the decision be made." It doesn't say, "no oil never." It doesn't say "you can't put oil anywhere except Portland," as the Governor's Task Force on Energy and Heavy Industry on the Maine coast would seem to imply. It says, simply, "Let us have the protection of the law."

Now, I am not going to make any references to the recent Tamarco spill, or all the things that have gone on, petroleum politics in full blush in Augusta, but I do want to say this to you members of the Senate in all sincerity; my father was county agent in Washington County in the 1920's when the economic situation, the economic plight of the people in Washington County, unfortunately, was almost as bad, if not worse, than it is today. I am familiar with the problems in Washington County. So when people start bleeding and dying about the poor working people in the State of Maine, I have a tendency, as one who was brought up under rather modest circumstances—I didn't have to read about poverty by going to a

private school and reading about it in the economics course—I am very suspect of those who say, "Let's give them a few jobs down in Eastport," because when you start talking that way, you are ignoring the fact that there are 16,871 license holders in the Department of Sea and Shore Fisheries whose livelihood as fishermen, processors, distributors of the fisheries product is directly dependent upon the maintenance of the coast of Maine. The value of our fish landings in Maine, members of the Senate, in 1972 was in excess of \$173,000,000 in that year alone.

It seems to me perfectly obvious that this bill in its present form does not prevent Pittston from filing its application. It does not prevent the Department of Environmental Protection from processing the application. All the moratorium bill, in its present form, as proposed by Report "B," would do would give us some reasonable period of time following the decision of the Supreme Court of Maine to adopt corrective legislation in the event that all or some part of our legislation from the 104th is declared unconstitutional. I am confident of the outcome of that bill. Therefore, you might say, well, why are you for a limited moratorium and a limited moratorium not only in time but in what it prohibits? I am in favor of it simply because I firmly believe that we have got to have the statutory protection that this kind of law, which is now under challenge by the oil companies, would provide.

Now, you have all been lobbied. You have seen the brochure, I am sure, that says "Leave it to the Coastguard." That is just like requiring the Augusta Fire Department to call Washington to find out whether or not and how they are going to put out a fire. I say, that we in the State of Maine have primary fundamental responsibility for the protection of Maine's coast. I don't think that is something I want to turn over to some federal agency.

Secondly, you have been told well they are already doing it in

Canada. That is a very unpersuasive thought to me. As a matter of fact, in the present state of the law, Canada has stricter oil pollution control standards than we do, and they have a coastal protection fund.

In short, I know that all of you have given this matter very, very careful and serious thought, but I hope that you won't be bamboozled into thinking that this moratorium proposal, particularly in its present form, does anywhere near what its opponents say it will.

I want jobs for Maine people, and I know about Washington County. And to bring up a possibly touchy subject, I was one of 33, I believe, members of the other body in 1965 who voted against the declassification of the Prestile Stream. So when we start talking about jobs for Maine people, let's not make it a lot of senseless political oratory, but let's put it right on the line. You are talking about thousands and thousands of Maine families who are directly dependent upon the sea for their livelihood, and that is the name of the game, members of the Senate and a fisheries industry that is worth in excess of \$170,000,000 a year in landings alone.

Mr. President, I request 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 Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: I believe that an oil refinery development may be of benefit to the economy of the people of Maine in the long run, but I believe that if we are to maximize the economic benefits and minimize the adverse ecological effects we must have a strong and sensible state policy for dealing with refineries. We ought to have intelligent regulations covering all aspects of this sophisticated and complex industry.

Because of court action, an important part of any regulation of this industry, oil transfers, is presently ineffective. To minimize the

possible adverse effects of refinery development, the state must have a voice in how oil is handled here. A seven-month moratorium, in my judgment, will not have a substantial adverse impact on the economy, but it could have an important impact in insuring that the costs of oil development do not exceed the benefits.

For these reasons, I support this reasonable and responsible measure, as put forth by the Natural Resources Committee, by the distinguished Senator from Sagadahoc, Senator Schulten. I will support acceptance of Report "B".

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

Mr. BERRY: Mr. President and Members of the Senate: I would support the position a little bit reluctantly because I had hoped for a longer period. It was my privilege to introduce the original moratorium bill, and I welcome on board several people who at that time worked very hard to kill it.

While I am on my feet, I would like to address myself to the problem of a conflict of interest. I think these comments apply not only to the issue at hand but to some that we will be facing in the future. There is on the statutes resulting legislation which was passed some time ago, and I would invite your attention to these words defining a conflict of interest: "For the purpose of this chapter a legislator shall be deemed to have a conflict of interest: one, when the adoption of proposed legislation will result in a direct significant financial gain to him or his spouse; two, when the adoption of proposed legislation will result in a direct substantial financial gain to his employer or to a person, corporation or association in which he or his spouse owns stock or other securities;" and finally, "three, when the legislator's vote on a proposed matter is influenced by the promise of payment or by the promise of employment to him or to a member of his family."

Now I have emphasized the word 'direct' financial here because we have had before the Ethics Committee, as you know, several re-

quests for rulings by members of the legislature, and "direct" is meant to the exclusion of other members of his profession, his industry, or his business. In other words, a legislator peculiarly and uniquely profits.

Now there has been a lot of thought, debate and consideration that has gone into this legislation. I won't read you the definitions and the explanations the legislature saw fit, but I would commend Title 3, Subsection 311, Chapter 19 to you, because it defines the problems that face us and emphasis is placed on the part-time legislator problems that we face. Accordingly, unless there is an interest, and certainly there has been no situation described here this morning where there is a peculiar financial direct interest involved, I would oppose excusing any member of this body from discharging his duties which he accepted when he assumed office.

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

Mr. TANOUS: Mr. President and Members of the Senate: Personally, I have listened to the debate relative to this moratorium, I also have done a little research on my own, and some of you seem to feel that now the new draft has reduced the time limit to January, 1974 that the reduction of time has sort of shifted your position, and you feel that perhaps you ought to support a shorter moratorium. Frankly, I don't see why the same argument against the moratorium should not apply to one day, one month, seven months, or one year. I think if one is in favor of a moratorium, or you are opposed to it, then your reasoning should be similar for one day, one month, one year, or two years for that matter.

I am greatly concerned because I was a member of the 104th Legislature that voted for that particular legislature enacted law, and really these laws have been used as guidelines for the whole country. We were frontrunners in the environmental field in the State of Maine. I am opposed to the moratorium for one day even, and I would like to spend a few min-

utes to tell you why. I think when I say I am opposed to the moratorium that I speak in behalf of the vast majority of the people of the State of Maine as well. I think the great majority of the people in this state must work for a living, as we are all certainly aware of, and while they, as I do, want the best possible natural environment for the State of Maine, it is equally true that in a state with current unemployment 50 per cent above the rate of the rest of the country, we, as a legislature, must draw a balance between employment opportunities and environmental considerations. If some of you would check the record of the 104th, this was my position then and it still remains my position. I don't think that any state can in a good honest measure say that we should go all out for environment protection and yet forget that we do have some people that have to survive, and their livelihood depends on much of the work that they do here in the State of Maine.

I too, I suppose, could run down through many of the items that Senator Richardson from Cumberland discussed, like the Tamano case. In that particular incident, we did have a measure that the Governor could have used. Why it never was used I don't know, but we did have laws on the books protecting this area. I feel that we must be concerned with all aspects of our state, our environment as well as our industry. It was for these reasons, very many reasons, that this legislature through the last few years has enacted all kinds of legislation in this area, and I point these out to you. Look at the very many laws that we have enacted in the last several years: Mining and Rehabilitation of Land, Site Location and Development, Protection and Improvement of Waters, Protection and Improvement of Air, Department of Environmental Protection, and Wetlands. Over and above these, we have got the Coast Guard oil spill regulations, multitudes of regulations. True, these won't come into effect until July of 1974, but here they are, all kinds of regulations dealing with this particular area

of our laws. We also have a federal law dealing with this, in fine print, multitudes of pages that deal with this.

In essence, what I am trying to point out is that the State of Maine and the federal government have enacted legislation in every possible conceivable area relating to environment protection. Not only have we enacted legislation in this area; we have also created departments. We have got personnel that we are paying thousands and thousands of dollars each year to interpret our law, to protect our environment, to deal on an equitable basis with the problems of industry and the problems of our environment. Now, are we to say that all of these laws are not adequate, that we are going to vote for a moratorium?

If we vote for a moratorium, I suggest that at the same time we ought to close these departments down for seven months, or whatever time we are going to impose the moratorium upon the people of Maine. Why should we pay salaries to these people if they are not going to be able to function? Granted, they can keep the office open perhaps and serve some purpose, but I am convinced that we have taken the environment out of the political spectrum in this legislature. We have passed laws, we have created agencies, we have given them staff experts in the field, so why not let them make the decisions? Why should these all of a sudden become a political decision? These are questions that bother me. Here we have experts in this field, and I am fully convinced that they ought to be permitted to carry out the laws that we have voted for in the last several years; again, I mention, some of the best laws perhaps in the country.

With this in mind, I hope that you will support me in opposing this moratorium and forever putting it to sleep, and taking it out of the political spectrum and leaving it where it should be, along with the administrative body of our law. Thank you very much.

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

Mr. BERRY: Mr. President and Members of the Senate: Perhaps Senator Tanous of Penobscot is not aware of the nature of the beast that we are involved with. He has talked about there being available to the state the know-how, the staff, and the resources to combat our pollution problems as proposed by the oil industry. I would invite to his attention that this industry couldn't get into court fast enough when we passed the oil conveyance law. We are still in the court, and they have avowed that if the State Supreme Court rules against them that they will go to the Federal Supreme Court; that we can count upon. This is the nature of the people that we are considering here this morning.

If this coastal conveyance law had been in effect when we had the recent disastrous spill on the Southern Maine coast, the effects would have been cleaned up a lot more quickly and a lot more efficiently. As it was, the industry, the company involved, did a good job considering that they personally had to pay the expense involved, but they finally arrived at a point where they said "We are not going to pay any more." I don't think we should fool ourselves as to who we are playing the ball game with here today.

I do feel that, as Senator Tanous properly put it, we did enact good legislation, very progressive, the first in the country, but it hasn't been in effect one day. This is a very mild step, as I indicated earlier. I had hoped that we would support something a little bit longer but, as Senator Schulten from Sagadahoc says, we can come back in a special session and in a few days, hopefully, do something more. But the state of the art is not such now that the industry which Senator Richardson from Cumberland referred to can be protected.

I would suggest to Senator Tanous of Penobscot that he in East Millinocket is just as concerned with the valuation of our shore land as are those of us who come from the shore land, that the valuation of the shore property means a great deal to the economy of the State of Maine and its destruction

would cost everybody in the State of Maine something.

I think it is quite important that we keep these matters in perspective as we vote. Everybody in the state is eminently concerned with the other person in the state, the industries are interrelated. I can see why big industry might say, "Let's get a refinery, we will get cheaper number six oil," but at what cost at the present state of the art. I think none of us, those who have worked hard to put in sensible pollution measures, are against the ultimate construction of a refinery in the State of Maine. All we are saying is that if and when such a construction can be accomplished with a minimum impact on our ecology, then we are all for it.

Now the facts are that in the last four years we know little more than we did before about oil pollution along the coast of Maine and how to prevent it. There is a lot of effort and money going into it but we are not making too much progress.

I seem to sense, perhaps in this legislature a little bit more than others, a sense of urgency that we have got to divide up the State of Maine and we have got to develop it, we have got to build it and we have got to do everything today that perhaps will result a few years from now in nothing being left in the State of Maine to do.

Now land developers and some of our realtors are running pell mell trying to retire restrictions at all on land development. We have seen heavy industry trying to come right in and today build something when we have no known safeguards to prevent the resulting pollution.

I heartily urge you to adopt a posture of long-range vision here so that the people who follow us will have something left in the State of Maine of which they can be proud and they can work to preserve, as you and I are doing today.

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

Mr. TANOUS: Mr. President and Members of the Senate: I can-



not permit a vote to go on record prior to answering the comments of my good friend, Senator Berry from Cumberland. Now, he refers to the problems we had with the law that we enacted relative to oil spills, oil discharge, the prevention of Pollution Control Act which was enacted by the legislature. Granted that perhaps the constitutionality was challenged in this particular bill, but you should remember also that at the same time we enacted a general fund bond issue in the amount of \$4,000,000 for removal of abatement prohibited discharges of oil from coastal waters. This is Chapter 239 of the Private and Special Laws of 1969, and this bond issue was approved by the people of the State of Maine. A \$4,000,000 fund is and was available in the event of oil disaster or catastrophe as declared by the Governor in order to provide monies for the removal of oil and the payment of damages resulting from an oil spill.

Now, this power was granted to the Governor, incidentally, by the Maine Civil Defense and Public Safety Act of 1949, as amended in 1969 or 1971, and this grants the Governor vast emergency powers in the event he should need them in matters of the situation which Senator Berry mentions.

Now, why, as I mentioned, the Governor never used his powers in the Tamano oil spill in Portland, I don't know. It is my feeling that this was enacted for that purpose, and maybe my interpretations of these various laws are wrong; and if I am, I certainly would appreciate it if somebody would correct me, and I am sure somebody will.

Also I would like to ask the proponents of this particular bill as to whether or not the attacks made on our environmental laws that we have enacted, whether these attacks only are limited — in the courts, I am referring to, whether the cases pending in court — my understanding that it only attacks a small portion of these various laws, and not the entirety of our law. Assuming that the courts should rule in favor of the oil companies, only a very minor portion

of the laws, like they have a charge of a half cent per barrel, my understanding is that this is the area that we are challenging — if the whole law is being challenged, my understanding is that it isn't the entirety of the law that is being challenged, but only a minor scope of the laws, and that the rest of the laws remain constitutional. I might mention that I am certainly in hopes that the courts will have a decision for us by June 1973. I understand that most likely we should have, and I hope that we do. Thank you.

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

Mr. RICHARDSON: Mr. President and Members of the Senate: I am simply delighted to attempt to answer the questions of the good Senator from Penobscot, Senator Tanous. Before I do, for those of you who were not here in 1970, I want you to know that my good friend from Cumberland, Senator Berry, when he said to some us, "Welcome aboard," he was directing at least a little piece of that comment to me, and let me tell you why; because as a naive country boy from West Cumberland, I thought that when we enacted the Site Selection Law and the Coastal Conveyance of Petroleum Law, we had the two-part statutory protection that we needed, and that oil development on the coast of Maine could, in fact, go ahead subject to some pretty good protective measures. Well, my naivete was rewarded, the oil companies took us to court, and, Senator Tanous from Penobscot and other members of the Senate, the law which we passed is in the state of limbo.

The vicarious liability section of the statute which is essential to full protection is under vigorous attack with skilled legal attempts on its life being made by the Portland Pipeline. The one-half cent per barrel transfer fee, which is at the very heart of the coastal protection fund and is the very basis of its existence, is in a state of limbo.

Most importantly, and in defense of the Governor — and I am

pleased to defend the Governor in this matter, not that it is necessary for him to pick out as weak and feeble a spokesman as myself — the administrative provisions of the law permitting the vigorous application of the coastal protection fund and the arbitration provisions of the damage fund are in a state of limbo, and that is the reason why. That is the reason why we need what I view as a very moderate step today to permit us to eventually have, the Department of Environmental Protection to have, both the Site Selection Law and the Coastal Protection Law to work with. Then I will be pleased, Mr. President and Members of the Senate, to let these experts, in whom Senator Tanous from Penobscot has so much faith, do their work unimpeded by any views of the public good from this body.

The PRESIDENT: Is the Senate ready for the question? The Senator from Cumberland, Senator Morrell, has asked leave to be excused from voting, under Senate Rule 24, because of the potential or possible conflict of interest.

The Chair recognizes the Senator from York, Senator Marcotte.

Mr. MARCOTTE: Mr. President, in the event that this body is to rule on the conflict of interest, I feel that I also should be part of that ruling as I am directly involved in the oil business.

The PRESIDENT: Did the Chair understand that the Senator from York, Senator Marcotte, wishes the Senate to rule on his possible conflict of interest after it disposes of the request of the Senator from Cumberland, Senator Morrell.

Mr. MARCOTTE: Concurrently.

The PRESIDENT: The Chair would rule that one will be disposed of at a time.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: I would urge, for reasons given, that the Senate vote not to permit either Senator Morrell of Cumberland or Senator Marcotte of York to refrain from voting on this matter.

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

Mr. SPEERS: Mr. President and Members of the Senate: A parliamentary inquiry. It is certainly my feeling that any member of this body is the best judge as to whether or not he has a conflict of interest and whether or not he should vote on any particular matter. The inquiry, Mr. President, would be whether or not it is in the power of the body, and whether or not it is by majority vote to rule as to whether an individual has a conflict of interest and should be permitted or not permitted to vote on any particular issue.

The PRESIDENT: The Chair will read Senate Rule 24 to the body.

After a question is put to vote, no Senator shall speak on it. Every Senator who may be present shall vote unless excused by the Senate, or excluded by interest." The Chair would interpret that to mean that a majority vote of the Senate would decide the question.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President, I would like to make a parliamentary inquiry. It seems to me that one of the factors which would influence my decision on this vote would be whether or not the matter is a request of the Senator or whether we are voting on whether or not there is a conflict of interest. I think there are two separate questions. I think I would be inclined to agree with the Senator if he wished not to vote, but I am inclined not to agree that there is a kind of a conflict which would prevent a vote.

The PRESIDENT: The Chair would inform the Senator and the body that there are statutory requirements as far as ruling on conflict of interest, which is composed of six members of the leadership of both bodies and both political parties to rule on conflicts of interest. As I understand the question that was put to the Senate by the Senator from Cumberland, Senator Morrell, he asks leave of the Senate to be excused from voting. As many Senators as are in favor of granting the Senator from Cumberland, Senator Morrell, leave from voting will please rise and

remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. Nine Senators having voted in the affirmative, and 22 Senators having voted in the negative, Senator Morrell of Cumberland was not granted leave to be excused from voting.

Thereupon, Mr. Marcotte of York withdrew his request to be excused from voting.

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

Obviously more than one-fifth having arisen, a roll call is ordered. The pending motion before the Senate is the motion of the Senator from Sagadahoc, Senator Schulten, that the Senate accept Report "B", Ought to Pass in New Draft, on Bill, "An Act Providing a Moratorium on Oil and Heavy Industry Development Along the Maine Coast." A "Yes" vote will be in favor of accepting Report "B"; a "No" vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Aldrich, Anderson, Berry, Brennan, Clifford, Conley, Cummings, Danton, Fortier, Greeley, Kelley, Olfene, Peabody, Richardson, Schulten, Sewall, Shute, Speers, Wyman, MacLeod.

NAYS: Senators Cianchette, Cox, Cyr, Graffam, Hichens, Huber, Joly, Katz, Marcotte, Minkowsky, Roberts, Tanous.

ABSENT: Senator Morrell.

A roll call was had. 20 Senators having voted in the affirmative, and 12 Senators having voted in the negative, with one Senator absent, the Ought to Pass in New Draft Report "B" of the Committee was Accepted, the Bill in New Draft Read Once and Tomorrow Assigned for Second Reading.

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

#### Papers From the House

WHEREAS, Warren H. and Faye Voter have owned and operated the Voter Hill Farm, overlooking Sandy River Valley at Farmington, for many years; and

WHEREAS, Voter Hill Farm is recognized nationally for its fine show herds of registered milking Shorthorn cattle and purebred Romney sheep flocks; and

WHEREAS, Warren Voter has worked tirelessly in his efforts to improve farming techniques and to promote the use of new and modern ideas and machinery; and

WHEREAS, his success in farming complemented with the aid of a devoted wife and active involvement in the affairs of the community, county and State, has earned for him the Maine Extension Association's title of Outstanding Farmer of 1973; now, therefore, be it

ORDERED, the Senate concurring, that We, the Members of the Senate and House of Representatives of the One Hundred and Sixth Legislature now assembled, join a host of friends and admirers throughout the State in extending congratulations to Warren H. Voter, the Outstanding Farmer for 1973 and wish this outstanding citizen continued success for the years to come; and be it further

ORDERED, that a suitable copy of this Order be transmitted forthwith to Mr. and Mrs. Voter in honor of the occasion. (H. P. 1441)

Comes from the House Read and Passed.

Which was Read and Passed in concurrence.

Mr. Shute of Franklin was granted unanimous consent to address the Senate:

Mr. SHUTE: Mr. President and Members of the Senate: I am very pleased that the Secretary was permitted to read the order that came from the other body in its entirety, and at this time it gives me great honor to present Maine's outstanding farmer of the year, a neighbor of mine and a gentleman whom I have known many years. He is also a member of the County Commissioners in Franklin County. He is here with his wife Faye to-

day, and it gives me great honor to present Mr. and Mrs. Voter of Farmington. (Applause)

### Second Readers

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

#### House

Bill, "An Act Providing Funds for Study of Bicycle Traffic." (H. P. 1425) (L. D. 1763)

Which was Read a Second Time.

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

Mr. SEWALL: Mr. President and Members of the Senate: This bill providing for a study of bicycle traffic was, in my opinion and in the opinion of those on my committee, erroneously referred to possibly the wrong department, and we would like a chance to reword some of the language in this L. D. So, with your permission, Mr. President, I would move that the Senate reconsider its action whereby the committee report was accepted.

The PRESIDENT: The Senator from Penobscot, Senator Sewall, moves that the Senate reconsider its action whereby the Ought to Pass Report of the Committee was accepted and the bill given its first reading. Is this the pleasure of the Senate?

The motion prevailed.

On further motion by the same Senator, the Senate voted to Substitute the Bill for the Ought to Pass Report of the Committee.

Thereupon, on further motion by the same Senator, the Bill was Re-committed to the Committee on Appropriations and Financial Affairs in non-concurrence.

Sent down for concurrence.

#### House—As Amended

Bill, "An Act Relating to the University of Maine Treasurer's Report". (H. P. 910) (L. D. 1198)

Bill, "An Act to Amend the Act Creating the Eastport Public Landing Authority." (H. P. 421) (L. D. 570)

Resolve, Authorizing the Forest Commissioner to Convey the State's Interest in Lot in Codyville, Washington County, to Clarify Title. (H. P. 988) (L. D. 1308)

Bill, "An Act Providing for Marine Resource Education by Department of Sea and Shore Fisheries." (H. P. 1127) (L. D. 1462)

Bill, "An Act to Establish a Cooperative Education Support Program." (H. P. 1101) (L. D. 1437)

Bill, "An Act Relating to Powers of Ogunquit Village Corporation." (H. P. 438) (L. D. 487)

Bill, "An Act to Increase the Salary of Court Reporters." (H. P. 328) (L. D. 446)

Bill, "An Act Relating to Fire Protection Requirements in Construction of Certain Buildings." (H. P. 493) (L. D. 647)

Bill, "An Act Relating to Release and Discharge of Persons Acquitted by Reason of Mental Disease or Mental Defect." (H. P. 336) (L. D. 454)

Bill, "An Act Prohibiting Hunting, Trapping and Fishing on Indian Lands by Non-Indians." (H. P. 351) (L. D. 466)

Bill, "An Act Prohibiting Bringing Animals Into Food Stores." (H. P. 986) (L. D. 1306)

Bill, "An Act Authorizing Games of Change at Agricultural Fairs." (H. P. 714) (L. D. 920)

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

Bill, "An Act Relating to Penalty for Burglary." (H. P. 206) (L. D. 279)

Which was Read a Second Time.

On motion by Mr. Tanous of Penobscot, tabled and Tomorrow Assigned, pending Passage to be Engrossed.

#### Senate

Bill, "An Act Requiring the Ramping of Curbs at Crosswalks for Physically Handicapped and Elderly Persons." (S. P. 585) (L. D. 1797)

(On motion by Mr. Joly of Kennebec, Tabled and Tomorrow Assigned, pending Passage to be Engrossed.)

Bill, "An Act Relating to a State Trails System." (S. P. 581) (L. D. 1788)

Bill, "An Act Relating to Membership in Maine Law Enforcement Planning and Assis-

tance Agency." (S. P. 325) (L. D. 1029)

Bill, "An Act to Provide Maine Students with Benefits of Environmental Education." (S. P. 400) (L. D. 1205)

(On motion by Mr. Katz of Kennebec, temporarily set aside.)

Which were Read a Second Time and, except for the tabled matters, Passed to be Engrossed.

Sent down for concurrence.

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

Bill, "An Act to Provide Maine Students with Benefits of Environmental Education." (S. P. 400) (L. D. 1205)

Mr. Katz of Kennebec then presented Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-77, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed.

Sent down for concurrence.

#### Senate—As Amended

RESOLUTION, Proposing an Amendment to the Constitution Changing the Tenure of Office of Sheriff to Four-year Terms. (S. P. 294) (L. D. 841)

Bill, "An Act Relating to Competitive Bids and Fair Minimum Wages for Construction of Public Improvements." (S. P. 388) (L. D. 1134)

(See action later in today's session.)

Bill, "An Act Relating to Management of Endowment Funds of Educational, Religious, and Charitable Organizations." (S. P. 285) (L. D. 832)

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 Authorizing Piscataquis County to Collect and Dispose of Solid Waste on a Regional Basis. (S. P. 270) (L. D. 795)

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

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

An Act Converting Great Pond Plantation into the Town of Great Pond. (H. P. 266) (L. D. 373)

An Act Revising Certain Motor Vehicle Laws. (H. P. 653) (L. D. 867)

An Act Relating to Membership on the Lewiston - Auburn Water Pollution Control Board. (H. P. 767) (L. D. 1000)

An Act to Increase Examination and Registration Fees for the Board of Examiners of Psychologists. (H. P. 789) (L. D. 1025)

An Act Relating to Due Date for Payment of Inheritance Taxes. (H. P. 1144) (L. D. 1337)

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.

Resolve, to Reimburse Frank E. Wise of Gorham for Plane Damage at Augusta State Airport. (S. P. 428) (L. D. 1298)

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

Resolve, to Reimburse Vivian Morrison of Dixfield for Property Damage by Highway Construction. (H. P. 1064) (L. D. 1388)

(On motion by Mr. Greeley of Waldo, placed on the Special Highway Appropriation Table.)

#### Emergency

An Act Relating to Name of Maine Commercial Fisheries. (H. P. 1095) (L. D. 1432)

#### Emergency

An Act Relating to Control of Outdoor Advertising. (H. P. 274) (L. D. 380)

These being emergency measures and having received the affirmative votes of 29 members of the Senate, were Passed to be Enacted and, having been signed by the President, were by the Secretary presented to the Governor for his approval.

### Orders of the Day

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

**HOUSE REPORTS** — from the Committee on Education — Bill, "An Act Relating to Conveyance of Secondary Pupils." (H. P. 633) (L. D. 847) Majority Report — Ought to Pass; Minority Report — Ought Not to Pass.

Tabled — April 12, 1973 by Senator Olfene of Androscoggin.

Pending Acceptance of Either Report.

On motion by Mr. Minkowsky of Androscoggin, retabled and Tomorrow Assigned Pending Acceptance of Either Report.

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

Bill, "An Act to Raise the Classification of Certain Surface Waters in the Town of Scarborough." (H. P. 1423) (L. D. 1747)

Tabled — April 12, 1973 by Senator Berry of Cumberland.

Pending — Passage to be Engrossed.

Mr. Schulten of Sagadahoc then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-80, was Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. SCHULTEN: Mr. President and Members of the Senate: This amendment was to take care of an omission in the transmission of the bill being reported out of the committee to the Maine Senate. It was the intent of the Committee to include this particular area called "Cool Rocks", and it is merely the upgrading of the waters in that particular Scarborough area.

The PRESIDENT: Is it now the pleasure of the Senate 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.

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

Bill "An Act to Prohibit Interlocking Directorates in Banking Institutions." (S. P. 575) (L. D. 1766)

Tabled — April 12, 1973 by Senator Katz of Kennebec.

Pending — Passage to be Engrossed.

Mr. Katz of Kennebec then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-81, was Read and adopted and the Bill, as Amended, Passed to be Engrossed.

Sent down for concurrence.

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

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

Tabled — April 12, 1973 by Senator Cyr of Aroostook.

Pending — Passage to be Engrossed.

Which was Passed to be Engrossed in concurrence.

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

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

Tabled — April 12, 1973 by Senator Berry of Cumberland.

Pending — Enactment.

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

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

Bill, "An Act Relating to Use of Studded Tires on Motor Vehicles." (S. P. 79) (L. D. 196).

Tabled — April 12, 1973 by Senator Berry of Cumberland.

Pending — Adoption of Senate Amendment "B" (S-71).

Senate Amendment "B" was then Adopted.

Mr. Morrell of Cumberland presented Senate Amendment "C" and moved its Adoption.

Senate Amendment "C", Filing No. S-79, was Read and Adopted

and the Bill, as Amended, Passed to be Engrossed.

Sent down for concurrence.

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

Joint Order Relative to Environmental Protection Control Erosion. (H. P. 1294)

Tabled — April 12, 1973 by Senator Cyr of Aroostook.

Pending — Motion of Senator Cyr of Aroostook to indefinitely Postpone Joint Order and Accompanying Paper.

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

Mr. CYR: Mr. President and Members of the Senate: Maybe I over-reacted on this Joint Order. Possibly in my attempt to be over protective of the Soil Conservation Service which, in my estimation, has done an excellent job here in the State of Maine, I probably over-reacted. Since then I have talked to Mr. Dinsmore, State Conservationist in charge of the State office in Orono, and he assures me that his service has been assured of work on this Joint Order, if it is passed by the Legislative Research Committee. As such, I hope that a good bill may come out of this, based on reality and not so much on emotion. Consequently, Mr. President, I withdraw my motion of indefinite postponement on this Joint Order.

The PRESIDENT: The Senator from Aroostook, Senator Cyr, withdraws his motion to indefinitely postpone.

The Chair recognizes the Senator from Cumberland, Senator Richardson.

Mr. RICHARDSON: Mr. President and Members of the Senate: It is my understanding that the purpose of this Joint Order is to cover the eventuality that the sponsor has in mind concerning another piece of legislation, that is, that it might not pass and, therefore, this Joint Order comes along as a back-up.

Although I have voted and spoken in favor of a lot of conservation bills, I think that this establishes a very undesirable precedent if every time you intro-

duce a bill in this legislature you put in a Joint Order to send it to a special study committee in case you lose. I think the legislative process is going to be so cluttered with Joint Orders that we are going to really be seriously hampered in our efforts. I think this establishes an undesirable precedent.

I regret that the Senator from Aroostook, Senator Cyr, withdrew his motion to indefinitely postpone, because I would like to have voted for it. For that reason, I will move to indefinitely postpone this order.

The PRESIDENT: The Senator from Cumberland, Senator Richardson, now moves that Joint Order, H. P. 1294 be indefinitely postponed. As many Senators as are in favor of the motion of the Senator from Cumberland, Senator Richardson, that this order be indefinitely postponed will please say "Yes"; those opposed "No".

A viva voce vote being taken, the Joint Order was Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

#### Reconsidered Matter

On motion by Mr. Wyman of Washington, the Senate voted to reconsider its prior action whereby Bill, "An Act Broadening the Sales Use Tax Exemption on Water and Air Pollution Control Facilities," (H. P. 60) (L. D. 72) was Indefinitely Postponed.

Thereupon, on further motion by the same Senator, tabled and Tomorrow Assigned, pending Enactment.

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

Mr. SEWALL: Mr. President and Members of the Senate: Recently I tabled two legislative documents which erroneously were blessed or unblessed with a price tag. I have been now notified by the finance office that the cost on these two L.D.'s was not correct, there being no cost on either bill. So, therefore, Mr. President, I move that the Senate take from the Special Appropriations Table L.D. 743 and L.D. 1282.

Thereupon, on motion by Mr. Sewall of Penobscot, the Senate

voted to take from the Special Appropriations Table An Act to Provide Sales Tax Credit on Replacement of Lost or Destroyed Motor Vehicles, (H. P. 564) (L. D. 743).

The same Senator then moved the pending motion.

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

On motion by Mr. Sewall of Penobscot, the Senate voted to take from the Special Appropriations Table, Resolve, Authorizing School Construction in City of Eastport, (H. P. 1089) (L. D. 1282).

The same Senator then moved the pending question.

Thereupon, this being an emergency measure and having received the affirmative votes of 30

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

#### **Reconsidered Matter**

On motion by Mr. Berry of Cumberland, the Senate voted to reconsider its prior action whereby Bill, "An Act Relating to Competitive Bids and Fair Minimum Wages for Construction of Public Improvements", (S. P. 388) (L. D. 1134) was Passed to be Engrossed.

Thereupon, on motion by the same Senator, tabled and Tomorrow Assigned, pending Passage to be Engrossed.

On motion by Mr. Sewall of Penobscot,

Adjourned until 9:30 tomorrow morning.