

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Sixth  
Legislature*

OF THE

STATE OF MAINE

Volume II

April 23, 1973 to June 5, 1973

KENNEBEC JOURNAL  
AUGUSTA, MAINE

**SENATE**

Monday, June 4, 1973

Senate called to order by the President.

Prayer by the Honorable Richard N. Berry of Cape Elizabeth.

Reading of the Journal of yesterday.

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

Bill, "An Act Clarifying Certain Municipal Laws." (H. P. 1118) (L. D. 1454)

In the House May 29, 1973, Passed to be Engrossed as Amended by Committee Amendment "A" (H-329) and House Amendment "C" (H-458), in non-concurrence.

In the Senate May 31, 1973, Passed to be Engrossed as Amended by Committee Amendment "A" (H-329), House Amendment "A" (H-349) and Senate Amendments "A" (S-121) and "B" (S-189), in non-concurrence.

Comes from the House, that Body having Insisted and Asked for a Committee of Conference with the following Conferees:

EMERY of Rockland  
SHUTE

of Stockton Springs

DAM of Skowhegan

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

**Non-concurrent Matter**

Bill, "An Act Relating to Forcible Entry and Detainer Procedure." (H. P. 846) (L. D. 1120)

In the House May 30, 1973, Passed to be Engrossed.

In the Senate May 31, 1973, the Majority Ought Not to Pass report Read and Accepted, in non-concurrence.

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

Thereupon, the Senate voted to Adhere.

**Non-concurrent Matter**

Bill, "An Act Relating to Witness Immunity in Civil Cases." (S. P. 639) (L. D. 1974)

In the Senate May 30, 1973, Indefinitely Postponed.

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

Thereupon, the Senate voted to Adhere.

**Communications**

**STATE OF MAINE**

One Hundred and Sixth Legislature  
Committee on Natural Resources

June 1, 1973

Honorable Kenneth P. MacLeod

President of the Senate

Senate Chamber

State House

Augusta, Maine 04330

Dear Senator MacLeod:

The Committee on Natural Resources is pleased to report the completion of that business of the 106th Legislature that was placed before this committee.

Total number of bills received	75
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Ought to Pass	11
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Ought Not to Pass	9
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Ought to Pass as Amended	11
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Ought to Pass in New Draft	19
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Divided Reports	13
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Leave to withdraw	8
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Referred to another Committee	1
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Referred to 107th Legislature	3
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Sincerely,

Signed:

T. TARPY SCHULTEN

Chairman

Which was Read and Ordered  
Placed on File.

**STATE OF MAINE**

One Hundred and Sixth Legislature  
Committee on Public Lands

June 1, 1973

Honorable Kenneth P. MacLeod

President of the Senate

State House

Dear President MacLeod:

The Committee on Public Lands is pleased to report the completion of that business of the 106th Legislature that was placed before this Committee.

Total Number of Bills Received	15
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Ought to Pass	4
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Ought Not to Pass	5
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Ought to Pass as Amended	4
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Ought to Pass in New Draft	1
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Divided Report	1
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Leave to Withdraw	0
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Referred to Another Committee  
0

Sincerely,

Signed:

HARRISON RICHARDSON

Which was Read and Ordered  
Placed on File.

#### STATE OF MAINE

One Hundred and Sixth Legislature  
Committee on Veterans &  
Retirement

May 31, 1973

Honorable Kenneth P. MacLeod  
President of the Senate  
State House

Dear President MacLeod:

The Committee on Veterans &  
Retirement is pleased to report the  
completion of that business of the  
106th Legislature that was placed  
before this Committee.

Total Number of Bills Received

	61
Ought to Pass	13
Ought Not to Pass	33
Ought to Pass as Amended	4
Ought to Pass in New Draft	1
Divided Report	2
Leave to Withdraw	6
Referred to Another Committee	2

Sincerely,

Signed:

HARRISON RICHARDSON

Which was Read and Ordered  
Placed on File.

#### STATE OF MAINE

House of Representatives

Augusta, Maine 04330

June 1, 1973

Hon. Harry N. Starbranch  
Secretary of the Senate  
106th Legislature

Dear Mr. Secretary:

The House voted to Insist and  
Join in a Committee of Conference  
on the disagreeing action of the  
two branches of the Legislature on  
Bill "An Act Relating to Psycho-  
therapist and Patient Privilege"  
(H. P. 1226) (L. D. 1601)

Respectfully,

Signed:

E. LOUISE LINCOLN

Clerk

House of Representatives

Which was Read and Ordered  
Placed on File.

#### Orders

On motion by Mr. Tanous of  
Penobscot,

ORDERED, the House  
concurring, that Bill, "An Act  
Creating a Drug Control Corps  
Within the State Police," Senate  
Paper 264, Legislative Document  
761, be recalled from the legislative  
files to the Senate. (S. P. 652)

Which was Read.

The PRESIDENT: The Chair  
recognizes the Senator from Han-  
cock, Senator Anderson.

Mr. ANDERSON: Mr. President,  
I would like to ask through the  
Chair a question of the Senator  
from Penobscot, Senator Tanous.  
Will this mean an expansion of the  
Department, creating a new  
bureau, or will the existing  
personnel take care of it?

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

The Chair recognizes the Senator  
from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President and  
Members of the Senate: In answer  
to the question of my good friend  
from Hancock, Senator Anderson,  
the original bill calls for the crea-  
tion of a drug corps within the  
State Police Department. There  
was an appropriation on the bill  
and it does call, I would assume,  
for hiring eight new state troopers  
to be trained exclusively in the  
area of drug enforcement.

My purpose for wanting to call  
the bill back is that I have come  
up with some sort of a compromise  
on this particular bill and,  
hopefully, it would be acceptable  
to the legislature. If not, I assume  
they would vote it down, but I  
would like an opportunity, at least,  
to present this compromise  
measure that I have come up with.

The PRESIDENT: As many  
Senators as are in favor of this  
Joint Order, Senate Paper 652,  
receiving passage will please rise  
and remain standing until counted.  
Those opposed will please rise and  
remain standing until counted.

A division was had. 22 Senators  
having voted in the affirmative,  
and six Senators having voted in

the negative, the Joint Order received Passage.

Sent down for concurrence.

#### **Committee of Conference**

On the disagreeing action of the two branches of the Legislature on Bill, "An Act Clarifying Certain Municipal Laws" (H. P. 1118) (L. D. 1454), the President appointed the following Conferees on the part of the Senate:

Senators:

JOLY of Kennebec  
ROBERTS of York  
ALDRICH of Oxford.

#### **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 to Specify Grounds for Filing Forcible Entry and Detainer." (H. P. 675) (L. D. 882)

Bill, "An Act Relating to Civil and Human Rights of Prisoners." (H. P. 1312) (L. D. 1730)

Bill, "An Act Relating to Nullification of Criminal Records." (H. P. 1327) (L. D. 1749)

Bill, "An Act to Amend the Human Rights Act to Prohibit Invidious Discrimination against Ex-offenders." (H. P. 1328) (L. D. 1752)

Bill, "An Act Restricting Use of Certain Campsites." (H. P. 1340) (L. D. 1776)

Bill, "An Act Relating to Sale of Timber Stumpage on the Public Reserved Lands." (H. P. 73) (L. D. 86)

#### **Leave to Withdraw**

The Committee on Veterans and Retirement on Bill, "An Act Relating to Service Retirement under State Retirement Laws." (H. P. 1412) (L. D. 1852)

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 to Regulate Insurance Premium

Finance Companies." (H. P. 399) (L. D. 528)

Reported that the same Ought to Pass.

The Committee on Appropriations and Financial Affairs on Resolve, Providing Funds for Purchase of Water Rights and Dam on Big Ferguson Stream, Somerset County. (H. P. 1395) (L. D. 1838)

Reported that the same Ought to Pass.

Come from the House, the Bill and Resolve Passed to be Engrossed.

Which reports were Read and Accepted in concurrence, the Bill and Resolve Read Once and Tomorrow Assigned for Second Reading.

#### **Ought to Pass — As Amended**

The Committee on Natural Resources on Bill, "An Act to Amend the Land Use Regulation Commission Law." (H. P. 627) (L. D. 851)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-471).

The Committee on Appropriations and Financial Affairs on Bill, "An Act to Repeal the Minimum Age for Hospitalization of Mentally Ill Persons." (H. P. 1295) (L. D. 1707)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-476).

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.

The Committee on Business Legislation on Bill, "An Act to Regulate Revolving Credit Accounts." (H. P. 45) (L. D. 52)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-453).

Comes from the House, the Bill Passed to be Engrossed as Amended by Committee Amendment "A" and House Amendment "A" (H-481).

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

#### **Ought to Pass in New Draft**

The Committee on State Government on Bill, "An Act to Permit Public Employees to Enter into a Deferred Compensation Plan and Authorize the Purchase of Insurance and Annuity Contracts." (H. P. 1296) (L. D. 1682)

Reported that the same Ought to Pass in New Draft under New Title: Bill, "An Act to Permit Public Employees to Enter into a Deferred Compensation Plan and Authorize the Purchase of Annuity Contracts and Investment Company Shares." (H. P. 1552) (L. D. 1984)

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

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

#### **Divided Report**

The Majority of the Committee on County Government on Bill, "An Act Relating to County Estimates." (H. P. 1330) (L. D. 1764)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1549) (L. D. 1983)

Signed:

Senators:

PEABODY of Aroostook  
ROBERTS of York

Representatives:

MCMAHON of Kennebunk  
SHELTRA of Biddeford  
FARRINGTON of China  
DYAR of Strong  
PONTBRIAND of Auburn  
DAM of Skowhegan  
CHURCHILL of Orland

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

Signed:  
Senator:

CLIFFORD

of Androscoggin

Representatives:

TANGUAY of Lewiston  
WHITZELL of Gardiner

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

Which reports were Read.

Mr. Clifford of Androscoggin moved that the Senate Accept the Minority Ought Not to Pass Report of the Committee.

The PRESIDENT: The Senator has the floor.

Mr. CLIFFORD: Mr. President and Members of the Senate: This bill is the so-called Home Rule Bill for County Government, and what it does is essentially give county government a free rein, in more ways than one, to grow larger and stronger than it is now. It sets up a financial board or a finance board which is, in my opinion, of questionable constitutionality, for every community within the county has one vote in electing a so-called finance board, and the finance board reviews the budget. There is no weight given to population, and I think that the finance board and the method by which the finance board is selected is clearly unconstitutional.

The county government and the county commissioners set their own salaries. The bill enumerates great powers for county government and, as you know, county government is now limited in its powers. This bill gives them all the powers that municipalities have, and even other powers.

In my opinion, this bill is moving in the wrong direction. It seems to me that we ought to be strengthening our municipalities and working towards getting our municipalities together to strengthen them, whereas I think this bill is moving the wrong way and it is untying county government and allowing it to grow unencumbered and unhindered. It seems to me this is one of the more important bills of this session, but I think it is one of the worst bills in this legislative ses-

sion, and I hope you would join me in voting to accept the Minority Ought Not to Pass Report of the Committee. Thank you.

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

Mr. ROBERTS: Mr. President, I would like to speak in opposition to the motion. As we know, county government is here in New England considerably different than it is all over the country. That is, in most states county government is the unit that is nearest the people.

Municipal government is not very great in many states. Take Kansas, for instance. There are 400 counties in the State of Kansas, and there are over 700 counties in the State of Texas, and that is the method whereby the people see their government as next to the people or the grass roots government.

Today the federal government is on a program whereby revenue sharing money is sent back to the states and to the people, and it is sent back to the people by sending it primarily to the counties and municipalities. In most areas of the country the counties and municipalities are almost one. Now, it is different here in the New England area particularly, and the money that is coming here, you are going to have to have county organization which will do as it should. In other words, to take that money and see that it is properly spent, and not use it for their own aggrandizement. In order to do that, you have got to have, I believe, some control on the part of the towns and cities over the county itself.

The control that the legislature now holds over the counties is not close, for one thing, and it is tenuous really. The county committee, for instance, that is supposed to handle this sort of thing is supposed to make decisions on whether somebody in Aroostook is entitled to something or somebody in York, and no one really knows whether they are or they are not. This way, you will have a committee to work on these budgets, which will be made up of the communities in those various counties.

Now, it may be that there is need for a change in the make-up of that particular committee but, nevertheless, the towns and cities that raise the money for the counties certainly should have a say on how the budget and the spending of it is originally drawn.

Now, as far as the legislature's concern as to the various salaries that the people are paid, the various so-called state statutory officers, here again we have to rely completely on what we are told by people of the counties and usually what the officeholder himself is able to tell you about why he needs a raise. I think these raises could be handled much better, as provided under this bill, for them to be done with the county commissioners who are aware of what sort of a job a person is doing, what his work is, and are aware of what is going on in this particular county, particularly where the review board or finance committee, or whatever you want to call it, is going to have a chance to review all this when the budget is being set up. The commissioners are the only ones actually whose salary is not set by them. To be sure, it is not set by the legislature either, but it is set by this committee.

This committee, by the way, is made up of five members, as presently set forth in the bill, five members from the communities in the county, and two members from the legislature.

I believe that the present arrangement certainly is not satisfactory. It is almost unworkable, and I believe this would be a step in the right direction. I will agree that this is perhaps not the best worded and the best bill that we could have on it, but at least I think it tackles two problems that have long since been a thorn in the side of the legislature and certainly a thorn in the side of the counties, and I hope you defeat the motion of my good friend, Senator Clifford.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: In

rebuttal to the good Senator from York, Senator Roberts, this bill does not get at the problem which is the problem of county government, and that is that the property tax is being used to fund functions which really are not municipal functions: the superior court, the probate court, the registry of deeds. These are not municipal type functions. That is one of the problems of the property tax; it has been used to fund them, and with no say on behalf of the municipal officers. This would give some say on behalf of municipal officers on the finance committee, but not on the kind of basis or not on a proportional basis, as it should be.

Other sections of the country do have workable county governments, but those county governments take the place of municipalities. The municipalities in those areas are weak. We don't have that type of county government. Our type of county government relates only to the state type functions, and in some of the rural areas they can, and they can now, contract with the municipalities to provide other services as needed.

I think this goes the wrong way. The approach of the legislature should be to working towards expanding the powers of the municipalities and breaking down the boundaries between municipalities. This is just going to be another layer on top of the municipalities.

I might add that we passed this session of the legislature a bill giving the legislature the power to cut county budgets by line item, and that bill will never have a chance to work if this bill passes because this bill will supersede it. I think we ought to give that bill, which we passed out of our County Government Committee during this session of the legislature, and which passed both houses, giving the legislature the power to cut county budgets by line item, I think we ought to give that a chance to work. I think this is going in the wrong direction, it is going to hurt the municipalities, and I think we are definitely going in the wrong direction. I hope you will

support the motion to accept the Minority Ought Not to Pass Report. Thank you.

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

Mr. SHUTE: Mr. President, I would like to pose a question through the Chair to either of the two Senators who are responsible for the debate on this issue. I think my primary concern is another bill, sponsored by a member of the other body, which addresses itself to a complete reform in another area of county government, and also a bill which we are considering which would do away with the county attorney system. It would seem to me that these two bills which are being considered by the legislature are in direct contradiction to this one, and I would like to know whether they believe this should be handled now, whether they should be tabled, whether they all should be considered together, or just how you would approach this problem. It seems to me that if we pass this we are flying in the face of other bills which are coming along.

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

Mr. ROBERTS: Mr. President and Members of the Senate: It is true that there are other bills that are here before us, or will be before us shortly which will considerably change county government, if they are passed, and you have mentioned two of them. Still another one is the bill which is coming to have the state take over entirely the cost of the superior court system, including jurors, witnesses, and everybody connected with the superior court system.

The other bill that you mentioned from a member of the other house does some of the things that this bill does, but it goes much further. It eliminates from the electorate any voting for these various county offices, and they are all appointed by an administrative assistant or an administrator who is selected to run the various counties, and we no longer have these various county officers running on the



ticket. So that bill goes much further than this, and the majority of the committee was not in favor of the other bill.

I grant you that this isn't an overall encompassing thing. There are several other different bills that are now about to be before us which will affect different parts of county government but this, in my opinion, is a start in the right direction.

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

Mr. DANTON: Mr. President, I would like to ask a question through the Chair. It says here, "Under this legislation, the budgets would still be submitted to the legislature, but the legislature would be able to change only the total amount stated in the budget, and neither it nor any legislative delegation would have the authority to cut, alter, or change any individual line items in the estimate."

Now, if they come in with a budget of, say, \$500,000, does that mean we can still cut it to any amount that we want? I would like to get a little clarification on that. I am not quite sure what this means.

The PRESIDENT: The Senator from York, Senator Danton, has posed a question through the Chair which any Senator on the committee may answer.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President, I think that the bill flies in the face of the bill which we passed this session giving the legislature the authority to cut by line item. As you know, all counties now are required to have line item budgets. There was some question as to whether or not the legislature could cut by line item. Even though the legislature had the final approving authority, the county government people said they did not, so the legislature this session passed a bill, which will be effective 90 days after the session ends, which will give the legislature that authority. This would go back, fly in the face, and supersede that bill, so the legislature would not be able to cut the budget in that manner.

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

Mr. BERRY: Mr. President and Members of the Senate: I have taken occasion during the debate to read the bill, and I find quite a few interesting points in it.

It seems to me, as has been pointed out, that we are making a drastic increase in the ability of the county commissioners to be autonomous, which I find not exactly to my way of thinking of the way county government should be handled. I hope that the county government can't do some of these things right now, but they would if this bill were to be passed. They can provide for parking places, water or sewerage facilities, they can provide for cemeteries, they can provide for flood control projects, they can provide for supporting the poor or for supporting a hospital, provide for a public ambulance, supporting a chamber of commerce or a board of trade, advertising resources and attractions. This would be awfully important to people in Brunswick, for instance. Providing real estate and personal property for a recreational program. Propagating and protecting fish in public waters. These are pretty important duties for county commissioners. Celebrating the anniversary of settlement or founding, and so forth. Providing for the planning, construction of ground transportation equipment and facilities, including airports.

Then the very last one is an item which, according to my reading of L. D. 1983, permits the county commissioners to issue up to \$500,000 worth of bonds, with no approval from anybody, for the purposes of this bill.

I don't believe this is what we are trying to do, frankly. I don't like to disagree with my two very good friends, Senator Peabody and Senator Roberts, but I do feel that this is not the direction that county government should be going in. As Senator Clifford has said, we are not getting at the basic problem here. The basic problem with county government is that there is no control by the voters of it. So I am going to vote with Senator

Clifford to accept the Ought Not to Pass Report.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Androscoggin, Senator Clifford, that the Senate accept the Minority Ought Not to Pass Report of the Committee on Bill, "An Act Relating to County Estimates." The Chair will order a division. As many Senators as are in favor of accepting the Minority Ought Not to Pass Report of the Committee will please rise and remain standing until counted. All those opposed will please rise and remain standing until counted.

A division was had. 21 Senators having voted in the affirmative, and six Senators having voted in the negative, the Minority Ought Not to Pass Report of the Committee was Accepted in non-concurrence.

Sent down for concurrence.

#### Divided Report

The Majority of the Committee on Judiciary on Bill, "An Act Relating to Probation and Expungement of Records for First-time Possession of Marijuana Offenders." (H. P. 470) (L. D. 618)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-475).

Signed:

Senator:

BRENNAN of Cumberland

Representatives:

DUNLEAVY

of Presque Isle

McKERNAN of Bangor

WHEELER of Portland

KILROY of Portland

WHITE of Guilford

HENLEY of Norway

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

Signed:

Sensors:

TANOUS of Penobscot

SPEERS of Kennebec

Representatives:

BAKER of Orrington

CARRIER of Westbrook

GAUTHIER of Sanford

PERKINS

of South Portland

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.

Mr. Tanous of Penobscot moved that the Senate Accept the Minority Ought Not 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: What this bill does is deal with expungement of records for first-time offenders for possession of marijuana and for those who are charged with that very egregious crime of being knowingly present where marijuana is kept, which I happen to think is a rather ridiculous crime, and one I suspect this legislature, in its wisdom, will take off the books, I hope, this session.

At any rate, under this situation, as this bill is, a person would still be convicted, he would have to serve his probationary period, and if he successfully served his probationary period we would try to expunge the record. So the state would still get its pound of flesh and, if he did not comply with the terms of probation, he wouldn't get the benefit of this.

I really ask what is the state's interest in permanently stigmatizing a young person? The average person involved in something like this is probably 18 years of age and he is expected to live to be 73. I see no reason that that record should be stuck with him for the next 55 years, since he would have been convicted and the state would have gotten its due. I just see no arguments, no real good arguments, against a bill like this. If we are talking about rehabilitation when we are dealing with the criminal process, this is a step in that direction.

I think psychologically it is much more difficult to rehabilitate someone if you stick him with that record. He has to face it the rest of his life in employment, in schools, or what have you. So this bill, again, it doesn't go very far. It just deals with marijuana knowingly present, a very, very minor type crime, and again it is

no give-away program in any fashion whatsoever. I think it is a meaningful rehabilitation type program. So I would very much urge you to vote against the motion of my good friend, the Senator from Penobscot, to accept the Minority Report, and then accept the Majority Report.

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

Mr. TANOUS: Mr. President and Members of the Senate: This L. D. 618 is perhaps a bill that I would ordinarily favor. I think my philosophy is somewhat in line with L. D. 618, and originally I felt that perhaps I would have supported this bill, until I commenced receiving some arguments against it, and until I did a little thinking of my own on the particular bill and digesting it.

Now, I am concerned with the relative aspects of marijuana offenses, and the Judiciary Committee is in the process of coming out with two separate bills. One of them is to repeal the aspect of the law dealing with "knowingly in the presence of." This section of the law has caused many injustices, in my opinion, and we are coming out with a bill to attempt to repeal this.

We are also in the hopes of coming out with a bill to repeal the second offense for possession as a felony. This has always been a contention with me that for a second offense of possession being a felony that is committed.

We are dealing presently with L. D. 618 and, in my opinion, I think this particular bill opens the door, or attempts to open the door, dealing with legalizing marijuana. Now, I would assume that if some of you favor legalizing the sale of marijuana you would endorse the concept of L. D. 618. I think in that area we are just opening the door to sort of getting people accustomed to liberalizing our laws in this area.

Over and above this, I guess probably the final decision rested upon a letter which I received from a good friend of my good friend, Senator Brennan from Cumberland. This letter came from

Thomas E. Delahanty, II, and he is the State Director for M.D.A.A. and President of the Maine Prosecutors Association. I think perhaps this letter is one that convinced me to oppose this particular bill. If you will just give me a few minutes, I will read it to you, as I think he puts across some very good points. He says, "Dear Senator Tanous: As President of the Maine Prosecutors Association, I was asked by Richard Clark of the Maine Commission on Drug Abuse to review the above bill and address the Judiciary Committee on" such and such a date.

"On March 10, 1973 a meeting of the Association was held in Waterville to discuss various matters, including the above proposal. At the time it was voted that the Association oppose this legislation, and I inform you of our decision and the reason therefor.

"The obvious intent of the bill is to allow youthful offenders to wipe their record clean so that a conviction for possession of marijuana will not be a detriment to their future education or seeking employment.

"Whereas prosecution of marijuana cases presently constitutes a notable percentage of the court case load, it is the feeling of this Association that the additional administrative tasks would further overburden the offices of the clerk of courts and probation and parole. It is well known that both these offices, especially probation and parole, are greatly understaffed. Mandatory probation and expungement of records would undoubtedly increase the duties, workload and efficiency of these officers." That particular sentence or that argument there I don't subscribe to as being a reason for voting against this bill. I think his reasons are better taken on page 2 of his letter. This is important here.

"L. D. 618 makes no distinction between the person who possesses a small amount for his own consumption or the person who is found to have several bricks which are obviously intended for sale.

"Having dealt with the prosecution of marijuana cases and other narcotics for several years, we are well aware that even the person who possesses a small amount may be a regular seller. Police often possess information, though not enough for prosecution, that establishes a defendant as a seller or regular user, which allows the prosecution to recommend harsher treatment. L. D. 618 is another step in taking away the court's discretion in sentencing." That is very important there, because presently your courts can continue these cases for a period of time if the individual or the accused hasn't been involved in problems involving any crime whatsoever, and the court can then see fit to dismiss the case. And he no longer has a record if the court has dismissed, because former Senator Beliveau of Oxford at the 104th introduced a bill which was enacted for the expungement of records involving a finding of "not guilty" or a dismissal. So that particular law on the books already provides for what the courts are presently doing, if they find an individual deserving and his background is good, if he hasn't been involved in other crimes. And this particular L. D. just speaks about marijuana; it doesn't discuss other crimes. He may be guilty of larceny, etc. So the courts presently can continue the case for a period of time of up to a year and then, if the individual has not been involved in any criminal activity in any area, the court can dismiss the case by virtue of that statute which was enacted four years ago, and the expungement of the record would follow.

There are a couple more good arguments in the letter, and I would like to go on. "After conviction, the defendant may not consent to the imposition of probation. It is a one-sided affair. After conviction, the recommendation of the prosecution should also bear weight and the discretion of the presiding judge should prevail. Judges are appointed for the purpose of exercising sound judgment and discretion. Let's not handcuff them." I have heard many times my good friend, Senator Brennan

from Cumberland, speak on mandatory penalties, and his chief objection to this is that we should leave the discretion up to the courts. Again, I reiterate his words, "leave the discretion up to the courts" in this area.

He goes on to say, "Much controversy now exists as to whether or not marijuana should be legalized. But in Maine it remains illegal to possess this substance, and violators should be subject to penalties provided. There is no valid reason why possessors of marijuana should be singled out for special treatment. Arguments that a possession of marijuana charge tend to impede one's chances of furthering his education or securing employment can be applied to all crimes. Simply because marijuana has become more prevalent during the past years is no basis to afford violators more lenient treatment. The act remains an offense against the state. If the procedure of L. D. 618 is adopted, then should your shoplifters, your teenagers charged with illegal possession or transportation of liquor be treated the same? You are opening the door."

If you favor this bill, again, I would suggest that any of you who intend to return to this body at the next session be prepared to continue voting your philosophy, because they will be in with other bills dealing with shoplifting or dealing with illegal possession of alcohol or illegal transportation. I recall a shoplifting case of a young man who took a 17-cent toothbrush, for instance. He was fined \$100 and given a record. I feel that that was perhaps harsh treatment, but it is the law and he was subject to it. But in those cases, again, the judge has the discretion of continuing these cases and dismissing them at the end of one year. I think the reason I bring that out is that should we treat marijuana users any differently than a person stealing a 17-cent toothbrush or the individual involved in illegal transportation or illegal possession of liquor? If you have a philosophy that you vote favorable to this, you should be prepared to continue voting your

philosophy. If you are opposed to it, I hope you all return and oppose other legislation in this area as well. Thank you.

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

Mr. SPEERS: Mr. President, I would simply like to echo the statements of the good Senator from Penobscot, Senator Tanous. I signed the Minority Ought Not to Pass Report on this bill because I think this particular bill is begging the question. It is not really the question that is before this body.

The question that really is before this body in this particular bill is whether or not possession of marijuana should be legal or illegal. And as long as that question remains decided on the statutes of the State of Maine, then possession of marijuana is illegal and, as Senator Tanous pointed out in reading you the letter, it should be treated no differently from any other misdemeanor that is on the statutes of the State of Maine.

Now, if you don't feel that marijuana is a particularly heinous crime, as probably the prevailing sentiment in the state today is, then the attack on the possession of marijuana should come through the front door directly on whether or not you feel that possession of marijuana should be a misdemeanor. There is a vehicle in the legislature at the present time that will enable anyone who feels that is the case, that it should not be a misdemeanor, to vote to remove it from the statutes as a crime. But as long as it is a crime, I agree that it should not be treated any differently from any other misdemeanor, such as shoplifting or any number of misdemeanors that could be mentioned.

So I feel that this particular bill is an attempt to liberalize the laws on marijuana by coming through the back door, and it will be very interesting to note how the supporters of this particular piece of legislation vote on the direct issue, and that is the decriminalizing of marijuana altogether. As long as it is a crime on the statute books

of the State of Maine, as long as it is designated a misdemeanor, it should be treated the same as all the other misdemeanors.

The good Senator from Cumberland, Senator Brennan, could very well have made the same argument that he made a few moments ago in regard to all misdemeanors. It should not have been applied strictly to the use or possession of marijuana. A criminal record follows an individual through his life, and the individuals who use marijuana, who have marijuana in their possession, should be well aware of that and they should come to this legislature and ask to have it removed from the books as a crime if they feel it is not a crime, as they have done.

A criminal record, of course, impedes an individual's chance at employment but, again, I would say that that argument can very well be made as far as any misdemeanor is concerned, and marijuana should not be singled out for special treatment. By doing so, you are saying that it is a misdemeanor, yes, but it is not as serious a misdemeanor as some of the other misdemeanors. Again I say, by saying that, you are really begging the question because, if that is the feeling of the proponents of this legislation, then they ought to hit the issue head on and vote for the bill that would decriminalize marijuana altogether.

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

Mr. BRENNAN: Mr. President and Members of the Senate: First, I want to commend Thomas Delahanty. I think he is a fine young prosecutor, but I happen to disagree with his views in this regard.

Secondly, as far as legalization of marijuana, I, like all candidates for register of deeds, am very much opposed to legalizing marijuana. This is not before this body, no way. There is a bill before the Judiciary Committee dealing with legalization of marijuana, and I believe it is coming out 12 to 1 Ought Not to Pass. In no way do I support legalization of marijuana.

Let's talk about this bill. I honestly believe that the two gentlemen that preceded me haven't really talked about this bill. It is talking about, well, why don't we do it for some other crimes, and that is not before the body at this time. If a bill came in dealing with a 17 year-old boy or an 18 year-old kid that was charged with shoplifting for the first time, I think, if he was arrested, convicted, placed on probation, successfully served his probationary term, I see no interest in the state holding that over his head or stigmatizing him, or indelibly printing that on his record for the rest of his natural life, but the matter before the Senate today is just in reference to marijuana, and there is a distinction between marijuana and shoplifting and marijuana and assault. In shoplifting it is a larceny and there is some intent to deprive somebody else of their property. In an assault someone forcibly attacks somebody. Marijuana is a different type situation. It is something, I suppose, that someone does himself. He isn't injuring directly. Maybe indirectly he is injuring other people. So there is a substantial distinction. But let's try to focus in on the bill before us and not talk about the other matters.

I again ask the question of what interest does the state have, after someone has been convicted, done his probationary term, complied with it, what interest does the state have in keeping that person down the rest of his life?

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

Mr. ROBERTS: Mr. President and Members of the Senate: I rise in opposition to my good friend, Senator Brennan. As far as I am concerned, I spent five years as a municipal judge a few years back when, fortunately for me probably, we didn't have very many marijuana or drug cases, but we had a lot of misdemeanors and first offenses.

I would go along with a good many things in this bill, except the word "shall", which goes through

there in about three different spots, which says the judge shall do this, and this shall be done and this shall be done. If this were not made mandatory, but were made discretionary, and the judge were given the discretion that I think the office entitles him to, then I think I could support this bill honestly.

You don't have to be too worried about anybody now under 18, once the law is passed that we enacted the other day raising the juvenile age to 18, because juveniles are treated differently and their records are handled differently. However from 18 over, or from 17 over, as it now is, you do run into a situation where a first offender can be a man 30 years old who has a criminal record as long as my arm, but this happens to be the first time he is tied in with marijuana and, as the good Senator Tanous suggested, he might have a couple pounds of the stuff in his possession, but he is still a first offender, and the judge has to do this, under this bill, as I read it. That is what disturbs me. If it were discretionary with the court, and he had a young man that he felt he wanted to show leniency to, fine, because I agree that if a young fellow like 18 or 19 gets a record, and this is his only record, and he has to carry it the rest of his life, he is being treated worse than he has any right to be.

But on the other hand, you have got to have a little discretion, I believe, with the courts, and I am certainly not in favor of hardly any situation where you take the court's discretion away and make it mandatory that the judge has to do these things, because I think then you are weakening your court system.

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

Mr. BRENNAN: Mr. President and Members of the Senate: Very briefly, I have listened very intently to the remarks of the good Senator from York, Senator Roberts, and I agree with a lot of points he made. I would be very glad, if you would accept this and let

it get its first reading, to prepare an amendment.

First, I would make it discretionary. We could change "shall" to "may". In regard to the opposition of my good friend from Penobscot, Senator Tanous, I would be glad to prepare an amendment that would put in a quantity exemption. I don't know whether it would be three ounces, four ounces, or two ounces. So, if the Senate would go along with accepting the favorable report, and voting against the pending motion, we could prepare amendments, I am sure, that would make it satisfactory to everybody.

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

Mr. SPEERS: Mr. President and Members of the Senate: While I have the good Senator from Cumberland, Senator Brennan, in such an agreeable mood, I wonder if he would also be willing to prepare an amendment to include all misdemeanors in the same category or, if not, if he could explain why he is singling out marijuana as being a lesser misdemeanor than any of the others.

The PRESIDENT: The Senator from Cumberland, Senator Brennan requests consent of the Senate to speak a fourth time. Is there objection? The Chair hears none. The Senator may proceed.

Mr. BRENNAN: Mr. President, in response to my good friend, the Senator from Kennebec, Senator Speers, the bill before us is dealing with marijuana. That is what the public hearing was on, that is what was advertised, and that is what we are talking about. If you want to kill the bill, just vote against it, but do not bring up these other arguments. This is the bill that is before the Senate.

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

Mr. TANOUS: Mr. President and Members of the Senate: I thank Senator Brennan from Cumberland for his opportunity to vote favorably on this and then to amend it to "may", but I would remind the good Senator that presently the judges have this discretion. They may continue these cases for a

year and then dismiss them, and the record, as I mentioned earlier, is expunged by virtue of the bill former Senator Beliveau put in and which was enacted. Mr. President, I would ask for a roll call please.

The PRESIDENT: A roll call has been requested. The pending motion before the Senate is the motion of the Senator from Penobscot, Senator Tanous, that the Senate accept the Minority Ought Not to Pass Report of the Committee on Bill, "An Act Relating to Probation and Expungement of Records for First-time Possession of Marijuana Offenders." A roll call has been requested. 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 Penobscot, Senator Tanous, that the Senate accept the Minority Ought Not to Pass Report of the Committee on Bill, "An Act Relating to Probation and Expungement of Records for First-time Possession of Marijuana Offenders." 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, Cianchette, Cox, Cummings, Fortier, Graffam, Greeley, Hichens, Huber, Joly, Kelley, Minkowsky, Morrell, Peabody, Richardson, Schulten, Shute, Speers, Tanous, MacLeod.

NAYS: Senators Aldrich, Brennan, Clifford, Danton, Katz, Marcotte, Roberts, Sewall.

ABSENT: Senators Conley, Cyr, Olfene, Wyman.

A roll call was had. 21 Senators having voted in the affirmative, and eight Senators having voted in the negative, with four Senators being absent, the Minority Ought Not to Pass Report of the Committee was Accepted in non-concur-

rence.

Sent down for concurrence.

### Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act Relating to Sales Tax on Farm Machinery and Equipment" (H. P. 1130) (L. D. 1465)

Reported that the same Ought to Pass.

Signed:

Senator:

WYMAN of Washington

Representatives:

MORTON of Farmington

COTTRELL of Portland

SUSI of Pittsfield

FINEMORE

of Bridgewater

IMMONEN of West Paris

DOW of West Gardiner

MERRILL of Bowdoinham

MAXWELL of Jay

DAM of Skowhegan

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

Signed:

Senators:

COX of Penobscot

FORTIER of Oxford

Representative:

DRIGOTAS of Auburn

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

Which reports were Read.

Mr. Fortier of Oxford moved that the Senate Accept the Minority Ought Not to Pass Report of the Committee.

The PRESIDENT: The Senator has the floor.

Mr. FORTIER: Mr. President and Members of the Senate: I do not intend to debate this at length but I think, in all fairness, I should make my reasons known for having signed the Ought Not to Pass Report.

I am as sympathetic to the farmers, I think, as any other group, but I am also very sympathetic to the small businessman, to the homeowner, and to the rest of the people who are the rank and file of our citizens who would have to take up the slack on this bill.

Two years ago and four years ago I was naive enough to believe

that we had granted about all the sales tax exemptions that we could. But I find this year not only do we have as many, but we have even more sales tax exemptions. This bill would involve a cost to the state or a decrease in receipts of \$52,000 the first year, and \$78,000 from there on. This is the amount that would have to be taken up by others, others who are probably no more able to carry the burden.

Systematically, we are decreasing our tax base. We talk about relief of the tax burden to the property taxpayers, but it is such things as these added on year after year which restrict our tax base, which is the cause, indirectly, for the problems that we have in our property taxation. I will vote for the Minority Report.

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

Mr. BERRY: Mr. President, I would like to, I am sure, represent the viewpoint of Senator Wyman, who is not here today, and ask the Senate to vote in opposition to the motion of Senator Fortier of Oxford.

I think the issue is not do we have the money. That will be taken care of if the bill goes to the Appropriations Table. I think what we should focus our attention on is the need for the legislation itself. If there is a more harassed, overworked, undercompensated group in the State of Maine than the farmers, I don't know what group it would be. I know that anybody in the potato business is very concerned within the next week that they can even get the seed potatoes into the ground, and if this were to happen we would have a calamity here in the state.

I don't know of any farmers that are overeating or spending too much money on amusement or anything else. So I think on this basis alone that this bill should be pushed along.

I am sure that Senator Fortier would agree with my philosophy in that his concern, as he said, is what are the order of priorities. I think the order of priorities can be established later, so I hope that



you would vote against his motion and, subsequently, for the passage of the bill.

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

Mr. ANDERSON: Mr. President, I move the vote be taken by division.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Aroostook, Senator Peabody.

Mr. PEABODY: Mr. President and Members of the Senate: I rise in opposition to the motion by Senator Fortier. This title as it appears before you here is rather deceiving, because it lists farm machinery and equipment. Tractors and any self-propelled combines are exempt at this time. All this includes is plows, harrows, or anything. Also it includes dairy refrigeration equipment. Now, most of these materials, outside the dairy equipment, are only used about two or three weeks during the year, and the sales that you might have, for instance, a plow, that plow may be in your possession at least seven to eight years before it is traded in again. Therefore, I hope you will go along with the Ought to Pass Report. Thank you.

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

Mr. DANTON: Mr. President, I move this lie on the table one legislative day.

The PRESIDENT: The Senator from York, Senator Danton, moves that Bill, "An Act Relating to Sales Tax on Farm Machinery and Equipment", be tabled one legislative day, pending the motion of the Senator from Oxford, Senator Fortier, to accept the Minority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Berry.

On motion by Mr. Berry of Cumberland, a division was had. Eight Senators having voted in the affirmative, and 18 Senators having voted in the negative, the tabling motion did not prevail.

The PRESIDENT: The pending motion before the Senate is the

motion of the Senator from Oxford, Senator Fortier, that the Senate accept the Minority Ought Not to Pass Report of the Committee on Bill, "An Act Relating to Sales Tax on Farm Machinery and Equipment." As many Senators as are in favor of accepting the Ought Not to Pass Report will please rise and remain standing until counted. All those opposed will please rise and remain standing until counted.

A division was had. 11 Senators having voted in the affirmative, and 15 Senators having voted in the negative, the motion did not prevail.

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

#### Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act to Make Murder Punishable by Death." (H. P. 979) (L. D. 1293)

Reported that the same Ought Not to Pass.

Signed:

Senators:

TANOUS of Penobscot  
SPEERS of Kennebec  
BRENNAN of Cumberland

Representatives:

BAKER of Orrington  
PERKINS of So. Portland  
WHITE of Guilford  
KILROY of Portland  
McKERNAN of Bangor  
DUNLEAVY

of Presque Isle

WHEELER of Portland

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-472).

Signed:

Representatives:

CARRIER of Westbrook  
GAUTHIER of Sanford  
HENLEY of Norway

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.

Mr. Hichens of York then moved that the Senate accept the Minority

Ought to Pass as Amended Report of the Committee.

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

Mr. TANOUS: Mr. President and Members of the Senate: I oppose my good friend, Senator Hichens from York, on this particular bill. I have many, many times listened to the debate of my good friend, Senator Hichens, and knowing his background, he is the type of a man that is forgiving and a man that believes in rehabilitation. Certainly your actions this morning do not tend to reflect your true feelings, and I would oppose your motion.

The bill, as perhaps you are aware, was amended to do away with life imprisonment for death and instead it provides for imprisonment for life without parole. This would be completely contradictory to other sections of the statute which deal with probation and parole. Those other sections should have well been amended by the individual who desired this amendment, because it would be completely contradictory to other areas of our probation and parole laws, and it would really create some confusion, believe me.

In any event, we have not in the State of Maine had one individual that was released after fifteen years or twenty years on parole from the State's prison, who has been rehabilitated, there has been no record at all in fifty years, to my knowledge, of a second offense in this area. So if we do believe in the rehabilitative procedures that we have endorsed in this state, then certainly we should not favor this bill. Thank you.

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

Mr. HICHENS: Mr. President and Members of the Senate: I want to thank the Senator from Penobscot, Senator Tanous, for his kind words. I hope I can live up to that reputation that I am forgiving, but I also feel that punishment comes along with forgiving.

When I see laws passed that allows a man who has maliciously handled someone and then murdered them, premeditated murder, eligible for parole at the end of seven or ten years, and then read in other states — perhaps Maine has been granted freedom from this thing — but in other states we have found that released murderers have done the same crime over again. In fact, last week as I returned from a short week-end visit to Nova Scotia, I read in a Nova Scotia paper relating to the escape of a murderer from a prison in Canada, how he had murdered two police officers before they finally recaptured him, and how the public has risen up against them putting him in for life imprisonment because he had murdered these two police officers.

When I listen to the Commissioner of Mental Health and Corrections saying that some of these murderers shouldn't even be imprisoned, that they should be turned over to the Department of Mental Health and Corrections for judgment rather than before a court judge, and some of them should be released the day after they have been convicted, I get very much disturbed. I think, personally, when a man premeditates murder, especially of a police officer or some other case such as that, life imprisonment is a pretty good penalty for his crime.

The PRESIDENT: Is the Senate ready for the question? The pending motion before the Senate is the motion of the Senator from York, Senator Hichens, that the Senate accept the Minority Ought to Pass as Amended Report of the Committee on Bill, "An Act to Make Murder Punishable by Death". The Chair will order a division. As many Senators as are in favor of the motion of the Senator from York, Senator Hichens, to accept the Minority Ought to Pass Report of the Committee will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. Five Senators having voted in the affirmative, and 19 Senators having

voted in the negative, the motion did not prevail.

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

Sent down for concurrence.

#### Divided Report

The Majority of the Committee on Judiciary on Bill, "An Act Relating to Grounds for Judicial Separation." (H. P. 1224) (L. D. 1594)

Reported that the same Ought Not to Pass.

Signed:

Senators:

TANOUS of Penobscot

BRENNAN

of Cumberland

SPEERS of Kennebec

Representatives:

PERKINS

of South Portland

CARRIER of Westbrook

KILROY of Portland

BAKER of Orrington

WHEELER of Portland

HENLEY of Norway

WHITE of Guilford

GAUTHIER of Sanford

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

Signed:

Representatives:

DUNLEAVY

of Presque Isle

McKERNAN of Bangor

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

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

Sent down for concurrence.

#### Divided Report

The Majority of the Committee on Liquor Control on Bill, "An Act to Permit Sunday Sale of Beer in Restaurants and Taverns." (H. P. 1349) (L. D. 1782)

Reported that the same Ought Not to Pass.

Signed:

Senators:

OLFENE of Androscoggin

SCHULTEN of Sagadahoc

FORTIER of Oxford

Representatives:

CHICK of Sanford

CRESSEY

of North Berwick

STILLINGS of Berwick

FAUCHER of Solon

FARNHAM of Hampden

IMMONEN of West Paris

GENEST of Waterville

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-473).

Signed:

Representatives:

TANGUAY of Lewiston

RICKER of Lewiston

KELLEHER of Bangor

Comes from the House, the Majority Ought Not to Pass Report of the Committee Accepted in 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 to Provide a Homestead Tax Credit for Elderly Persons." (S. P. 527) (L. D. 1657)

#### Ought to Pass

Mr. Huber for the Committee on Marine Resources on, Bill, An Act Relating to Marine Fishery Regulations, (S. P. 287) (L. D. 834)

Reported that the same Ought to Pass.

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

#### Ought to Pass - As Amended

Mr. Cox for the Committee on Business Legislation on, Bill, "An Act Providing for Suspensions of Domestic Corporations by the Secretary of State." (S. P. 398) (L. D. 1212)

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

Mr. Clifford for the Committee on State Government on, Bill, "An Act to Establish a Committee on Problems of Corrections." (S. P. 407) (L. D. 1209)

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

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

#### **Ought to Pass in New Draft**

Mr. Morrell for the Committee on Appropriations and Financial Affairs on, Bill, An Act to Implement Section 14-D of Article IX of the Constitution of Maine. (S. P. 561) (L. D. 1732)

Reported that the same Ought to Pass in New Draft under Same Title. (S. P. 651) (L. D. 1995)

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 Transportation on, Bill, "An Act Providing for Motor Vehicle Operator's License Classification." (S. P. 409) (L. D. 1211)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-201).

Signed:

Senators:

GREELEY of Waldo  
SHUTE of Franklin  
CIANCHETTE

of Somerset

Representatives:

KEYTE of Dexter  
FRASER of Mexico  
JACQUES of Lewiston  
WEBBER of Belfast  
McNALLY of Ellsworth

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

Signed:

Representatives:

WOOD of Brooks  
McCORMICK of Union  
BERRY of Madison  
DUNN of Poland

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

Thereupon, on motion by Mr. Tanous of Penobscot, Tabled and Tomorrow Assigned, pending Adoption of Committee Amendment "A".

#### **Divided Report**

The Majority of the Committee on Taxation on, Bill, "An Act to Exempt Child Placement Agencies from Payment of Sales Tax." (S. P. 208) (L. D. 552)

Reported that the same Ought to Pass.

Signed:

Senators:

WYMAN of Washington  
COX of Penobscot

Representatives:

DAM of Skowhegan  
FINEMORE

of Bridgewater

DOW of West Gardiner

SUSI of Pittsfield

MORTON of Farmington

COTTRELL of Portland

MAXWELL of Jay

DRIGOTAS of Auburn

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

Signed:

Senator:

FORTIER of Oxford

Representatives:

IMMONEN of West Paris  
MERRILL

of Bowdoinham

Which reports were Read.

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

#### **Divided Report**

The Majority of the Committee on Judiciary on, Bill, "An Act to Amend the Personal Property and Homestead Exemption Laws to Provide for Realistic and Liberalized Exemptions." (S. P. 462) (L. D. 1497)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-202).

Signed:

Senators:

TANOUS of Penobscot

BRENNAN of Cumberland

Representatives:

DUNLEAVY

of Presque Isle

KILROY of Portland

BAKER of Orrington

McKERNAN of Bangor

WHITE of Guilford

WHEELER of Portland

HENLEY of Norway

CARRIER of Westbrook

GAUTHIER of Sanford

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

Signed:

Senator:

SPEERS of Kennebec

Representative:

PERKINS

of So. Portland

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 move that the Senate accept the Minority Ought Not to Pass Report on this bill. Very briefly, what this would do is to include among those items which would be exempt from attachment and levy upon judgment radios, televisions and an automobile. I believe, up to \$600 in value. These items would not be able to be taken by a creditor, even after he has gone through the court process and has obtained a judgment. If the individual does not pay, he may levy upon the individual's property, with the exception of these particular items, and I fail to see particularly in the case of a television set what essential function a television set performs in an individual's life, so that item should be exempt from levy and execution upon a judgment.

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

Mr. BRENNAN: Mr. President and Members of the Senate: This is probably going to hurt the bill badly, but I sponsored it, and I sponsored it in behalf of the Maine Bar Association, which I am not even a member of. It is a very conservative organization that exists in the state. They support

this, and that is where the bill came from.

What it really is doing is just updating exemptions so that if a judgment is gained against a person, he would have sufficient wherewithal to still survive without going on state aid or something of that sort.

In regard to essentiality of a television set, I suppose it could be debated, but I think where there are small young children, and so forth, you virtually need a television set in the house in this day and age.

So the report favoring this is eleven to two, sponsored by a very conservative organization, and it is just updating our exemption laws, so I hope you vote against the motion of the good Senator from Kennebec, Senator Speers.

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

Mr. KATZ: Mr. President and Members of the Senate: May I direct a question through the Chair that, if this bill should pass, would the proponents be willing to stipulate that the \$3,000 homestead exemption, which dodges the issue within the bill, be declared on full market value of the property rather than leave it to local value which sometimes has a mysterious habit of being about 20 percent of the true value.

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

Mr. TANOUS: Mr. President and Members of the Senate: In answer to the question of my good friend, Senator Katz from Kennebec, the answer is in the affirmative, it is on the fair market value of the property and not the tax value. Perhaps it doesn't spell it out exactly in the bill, but this is the way, in my opinion, it would be enforced.

Also I join Senator Brennan, which I so very rarely do, in his request to defeat the Minority Report and accept the Majority Ought to Pass Report. It is an updating of a part of our law that hasn't been looked at for perhaps some fifty years. Thank you.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Kennebec, Senator Speers, that the Senate accept the Minority Ought Not to Pass Report of the Committee on Bill, "An Act to Amend the Personal Property and Homestead Exemption Laws to Provide for Realistic and Liberalized Exemptions". As many Senators as are in favor of accepting the Minority Ought Not to Pass Report will please say "Yes"; those opposed "No".

A viva voce vote being taken, the motion did not prevail.

Thereupon, the Majority Ought to Pass as Amended Report of the Committee was 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 Legislative Service Under State Retirement System." (H. P. 49) (L. D. 56)

Bill, "An Act Relating to Group Life Insurance for Judges and Justices of the Courts." (H. P. 371) (L. D. 500)

Bill, "An Act to Authorize the Commissioner of Sea and Shore Fisheries to enter into an Agreement to Lease the Land, Buildings and Facilities of the National Marine Fisheries Service Biological Laboratory at Boothbay Harbor." (H. P. 648) (L. D. 864)

Bill, "An Act Relating to Definition of Hotel under Labor Laws." (H. P. 744) (L. D. 957)

(On motion by Mr. Berry of Cumberland, tabled and Tomorrow Assigned pending Passage to be Engrossed.)

Bill, "An Act Relating to Contributions by Participating Local Districts under Retirement Law for Former Employees." (H. P. 952) (L. D. 1249)

Bill, "An Act Creating York County Commissioner Districts." (H. P. 1545) (L. D. 1976)

Which were Read a Second Time

and, except for the tabled matter, Passed to be Engrossed in concurrence.

Resolution, Proposing an Amendment to the Constitution to Provide for Indian Representatives to the Legislature. (H. P. 214) (L. D. 287)

Which was Read a Second Time.

Mr. Graffam of Cumberland then moved that the Resolution and all accompanying papers be Indefinitely Postponed.

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

Mr. HICHENS: Mr. President and Members of the Senate: I oppose that motion and ask for a division.

The PRESIDENT: A division has been requested. As many Senators as are in favor of the motion of the Senator from Cumberland, Senator Graffam, that Resolution, Proposing an Amendment to the Constitution to Provide for Indian Representatives to the Legislature, be indefinitely postponed will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. Nine Senators having voted in the affirmative, and 14 Senators having voted in the negative, the motion did not prevail.

Thereupon, the Resolution was Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

#### House — As Amended

Bill, "An Act to Provide a Minimum Fine for Obstructing Justice." (H. P. 983) (L. D. 1303)

Bill, "An Act to Establish a Uniform Program for Educational Leave for State Employees." (H. P. 507) (L. D. 672)

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

Bill, "An Act to Extend the Deadline for Mandatory Shoreland Zoning." (H. P. 1538) (L. D. 1968)

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

Mr. SCHULTEN: Mr. President and Members of the Senate: L.

D. 1968 refers to "An Act to Extend the Deadline for Mandatory Shoreland Zoning" and, for those of you who have read the bill, you notice that it gives it a deadline of July 1, 1973, for the municipal officers of the town to appropriate the proper body to charge them with preparation of ordinances to comply with the chapter, and then would extend to July 1, 1974 the actual commission to the state departments.

This was all brought about, not that anyone wanted to delay the mandatory zoning of shoreland, I don't think, but that the guidelines that the Department of Environmental Protection received came so late that it would just be physically impossible to do the job properly beforehand.

Since the bill has been on the calendar Friday and today, you will notice that on page three, under Section 4813, municipal failure to accomplish the purposes, if the municipalities then do not take the steps that this tells them to do, then the state, in conjunction with other departments, will have the authority or the job to do the shoreland zoning themselves and take it out of municipal hands. But in that event, the municipalities would have to live with the new zoning.

This seems a little harsh, perhaps, but it is one way to make certain that action is taken. However, it has developed that in this municipal failure to accomplish purposes we get a little sticky in that the number of departments that are going to be involved in deciding who, what and how and what is to be done, complicates the entire picture to such an extent that amendments are in the process of being drawn that would eliminate some of the departments mentioned that really would have no basis or bearings on such rules and regulations. I would hope that someone in this Senate body would be kind enough to table this bill for two legislative days in order that we might have proper amendments.

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

Thereupon, on motion by Mr. Berry of Cumberland, tabled and Specially Assigned for June 6, 1973, pending Passage to be Engrossed.

#### Senate

Resolve, to Locate the Public Lot in Township 2, Range 6 W.B.K.P., Franklin County. (S. P. 193) (L. D. 538)

Bill, "An Act to Clarify Title to Roads and Ways." (S. P. 317) (L. D. 983)

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

Sent down for concurrence.

#### Senate - As Amended

Bill, "An Act Providing Minimum Retirement Benefits for Certain Teachers." (S. P. 353) (L. D. 1049)

(On motion by Mr. Richardson of Cumberland, Tabled and Specially Assigned for June 6, 1973, pending Passage to be Engrossed).

Bill, "An Act Clarifying Interest Charges on Personal Loans in Excess of \$2,000." (S. P. 383) (L. D. 1129)

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

Bill, "An Act to Reform Methods of Computing Benefit Payments under Workmen's Compensation Act." (S. P. 427) (L. D. 1287)

Bill, "An Act to Create a Commission to Prepare Legislation Revising the Trial Court System." (S. P. 457) (L. D. 1473)

Bill, "An Act to Authorize Bond Issue in the Amount of \$3,000,000 for Acquisition of Real Property for State Parks." (S. P. 476) (L. D. 1537)

Bill, "An Act to Provide Elected District Attorneys." (S. P. 474) (L. D. 1569)

Bill, "An Act to Establish Title to Islands in Maine's Coastal Waters and to Create the Maine Coastal Island Registry." (S. P. 500) (L. D. 1608)

Which were Read a Second Time and, except for the tabled matters, 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 to Create a Department of Conservation. (S. P. 465) (L. D. 1521)

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

An Act Relating to Qualifications for Jury Service of 18-year-old Voters. (S. P. 496) (L. D. 1583)

An Act Amending the Laws Relating to Community Mental Health Service. (H. P. 483) (L. D. 627)

An Act to Amend the Snowmobile Laws. (H. P. 787) (L. D. 1039)

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

An Act Relating to Registration of Farm Motor Trucks having 2 or 3 Axles. (H. P. 950) (L. D. 1247)

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

An Act to Clarify Procedures under the Municipal Public Employees Labor Relation Act. (H. P. 1100) (L. D. 1436)

An Act to Allow Coastal Wardens to Inspect Holders of Licenses or Permits. (H. P. 1310) (L. D. 1740)

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

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

An Act to Create a Department of Conservation. (S. P. 465) (L. D. 1521)

Pending — Enactment.

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

Mr. SHUTE: Mr. President and Members of the Senate: I note that in the document it doesn't include the Sea and Shore Fisheries, nor does it include the Fish and Game Department. I recognize this as a document for the good Senator from Penobscot, Senator Sewall, and before I am prompted to move

for the indefinite postponement of this, I would like to have an explanation of why this isn't a device to get in the back door of establishing a Department of Conservation without any real meaning to it, because it is my firm belief that we should have Inland Fish and Game and we should have Sea and Shore Fisheries in any Department of Conservation, if it is going to have any meaning to it. I would like to address this question through the Chair to Senator Sewall or anybody on the State Government Committee who will respond to it.

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

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: I think that the question can be divided into two parts very easily. The Fish and Game Department is a political hot potato, and any attempt to include it in the Department is going to scuttle the chances of letting that legislation go through. This happened at the last session, and I don't think the winds have changed one bit. On the Department of Marine Resources, however, Sea and Shore Fisheries is an extremely large and increasingly expanding operation of state government, and that certainly should be by itself and, as Senator Shute from Franklin has said, there is good legislation going through doing this. I think that this bill, frankly, is a very, very good realistic approach to the establishment of the Department of Conservation.

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

Mr. SHUTE: Mr. President, just for the record, I would like to move indefinite postponement and ask for a division.

The PRESIDENT: The Senator from Franklin, Senator Shute, now moves that An Act to Create a Department of Conservation be indefinitely postponed.



The Chair recognizes the Senator from Cumberland, Senator Richardson.

Mr. RICHARDSON: Mr. President and Members of the Senate: I share some of Senator Shute's concern, but early on in the session I became convinced that an effort to place the Department of Inland Fisheries and Game within the proposed Department of Conservation was simply not a realistic legislative goal.

Secondly, I would like to reinforce, if I may, the comments of the Senator from Cumberland, Senator Berry, concerning the Department of Marine Resources, which is L.D. 1972, which is number seven on tabled and today assigned matters, page 11 of your Senate Advance Journal and Calendar. The Department of Marine Resources bill, of which I am very pleased to be the sponsor, is designed to upgrade marine resources and the problems of those who earn their livelihood from the sea to cabinet level status within the administration of state government. I don't know whether or not the Senator from Franklin, Senator Shute, had any other problems with this bill, but I certainly don't think that the failure to include Inland Fisheries and Game within it is a serious problem as ultimately it is going to happen.

Thirdly, I would hope that the Department of Marine Resources bill would be permitted ultimately to receive passage, and that the Senator would not withhold his support for the Department of Conservation on the grounds that Sea and Shore Fisheries is not included within it.

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

Mr. SPEERS: Mr. President and Members of the Senate: I would like to echo the sentiments mentioned by the good Senator from Cumberland, Senator Berry.

Really, on the issue of conservation we could include a great number of departments in the state government probably in a Department of Conservation. The particular bill, as it now stands, does include the Department of Forestry

and the Department of Parks and Recreation. And as a number of Senators have mentioned here this morning, the Department of Sea and Shore Fisheries is being reorganized into a Department of Marine Resources, and I would simply like to say that Marine Resources really encompasses a great deal more than simply conservation in that there certainly should be a great deal of emphasis placed upon the commercial value as well as the conservation value of marine resources of the State of Maine.

As far as the Department of Inland Fisheries and Game is concerned this presents a very unique tack on the part of those who oppose this particular bill. The committee was provided with a great deal of amusement at the public hearing at the time that those who opposed the bill two years ago so very strenuously and effectively came before the committee and said, "Well, now we favor the concept of the Department of Conservation, we really do, but we just don't see why it should not include the Department of Inland Fisheries and Game. We would not be opposed to this particular piece of legislation if the Committee on State Government in its wisdom amended this bill to include the Department of Inland Fisheries and Game." Well, it provided, as I mentioned, a great deal of amusement for the committee, but the political realities of the situation have not changed one iota and, therefore, the committee did not go along with this somewhat insincere suggestion. I would oppose, therefore, the motion of the good Senator from Franklin, Senator Shute, to indefinitely postpone this bill.

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

Mr. SEWALL: Mr. President and Members of the Senate: I won't belabor the merits of the creation of this new department. Suffice it to say that I believe that it is a good measure. I think it is a measure that is aimed at consolidating some of these state agencies who are concerned in the

same general area of land use, land development, land controls and various other matters which can be grouped in a feasible way.

I can assure the good Senator from Franklin, Senator Shute, that I would be glad to talk with him further on this if he has other questions, but I do believe that Parks and Recreation, forestry and the newly created, or will be created, Board of Public Lands will be very compatible agencies, and I certainly hope his motion to indefinitely postpone this measure will not prevail.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Franklin, Senator Shute, that An Act to Create a Department of Conservation be indefinitely postponed. As many Senators as are in favor of the motion to indefinitely postpone this bill will please say "Yes"; those opposed "No".

A viva voce vote being taken, the motion did not prevail.

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.

Resolve, Authorizing the Commissioner of Mental Health and Corrections to Lease Land in Windham to the Maine State Society for the Protection of Animals. (S. P. 617) (L. D. 1928)

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

#### **Emergency**

An Act Making Current Service Appropriations from the General Fund for the Fiscal Year Ending June 30, 1974. (S. P. 627) (L. D. 1949)

(On motion by Mr. Sewall of Penobscot, tabled and Tomorrow Assigned, pending Enactment.)

#### **Emergency**

Resolve, to Develop a Comprehensive Development Concept for Maine Mountain Areas and Provide Funds for a Preliminary Plan. (S. P. 542) (L. D. 1694)

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

#### **Orders of the Day**

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

House Report — from the Committee on Labor — Bill, "An Act to Permit Associations for the Promotion of the Pulpwood Industry." (H. P. 423) (L. D. 572) Ought to Pass Report.

Tabled — June 1, 1973 by Senator Tanous of Penobscot.

Pending — Acceptance of Report.

Thereupon, the Ought to Pass Report of the Committee was Accepted in concurrence, the Bill Read Once and Tomorrow Assigned for Second Reading.

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

House Reports — from the Committee on State Government — Bill, "An Act to Provide a Maine Citizen's Preference on State Civil Service." (H. P. 678) (L. D. 885) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass.

Tabled — June 1, 1973 by Senator Speers of Kennebec.

Pending — Acceptance of Either Report.

On motion by Mr. Speers of Kennebec, retabled and Tomorrow Assigned, pending Acceptance of Either Report.

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

Bill, "An Act to Correct Errors and Inconsistencies in the Fish and Game Laws." (S. P. 645) (L. D. 1980)

Tabled — June 1, 1973 by Senator Tanous of Penobscot.

Pending — Passage to be Engrossed.

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

Senate Amendment "A", Filing No. S-204, was Read.

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

Mr. TANOUS: Mr. President and Members of the Senate: Briefly, I would like to explain my reasoning why I presented this amendment. Section nine, which I seek to delete from the bill, has already been enacted into law at this session and signed by the Governor. I understand that we were asleep on it but, nevertheless, it became law.

It is now the request, I suppose, of one of the members of the committee to move this particular section of the law to another area which would make it a compulsory loss of your hunting license for a period of a year, in violation of a very minor section of our Fish and Game Law. I discussed this with the Chairman of the committee and he agrees with me on this point. In the other section of the law, Section 27, it opens the door to Sunday hunting. I am definitely opposed to that, and that seeks to delete that section as well.

The PRESIDENT: Is the Senate ready for the question?

Thereupon, Senate Amendment "A" was 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:

An Act Relating to School Buses. (S. P. 622) (L. D. 1936)

Tabled — June 1, 1973 by Senator Hichens of York.

Pending — Enactment.

Mr. Hichens of York then moved that, under suspension of the rules, the Senate reconsider its action whereby the Bill was Passed to be Engrossed.

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

Mr. SPEERS: Mr. President, a parliamentary inquiry: If the rules are suspended and we reconsider engrossment on this particular bill, should the proposed amendments, which I assume the good Senator will be offering, be defeated, would this matter then be in position for enactment again.

The PRESIDENT: The Senator is correct. Is it now the pleasure of the Senate that under suspension of the rules the Senate reconsider

its action whereby An Act Relating to School Buses was passed to be engrossed?

The motion prevailed.

On further motion by the same Senator, the Senate voted to reconsider Adoption of House Amendment "A".

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

Senate Amendment "A", Filing No. S-203, to House Amendment "A" was Read.

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

Mr. TANOUS: Mr. President and Members of the Senate: I received some telephone calls over the week-end on this L. D. I assume that this is the one. I would like to pose a question through the Chair to my good friend Senator Hichens from York. When this bill was enacted, would this prevent a superintendent, for instance, in an emergency situation from driving the school bus to pick up the children, or will this be totally restricted to operation, as it says in the bill, by school bus drivers who pass the test? I am familiar with situations, especially in rural areas, where you can't pick up a bus driver on a minute's notice, many times they call in sick, and they don't have a number of qualified school bus drivers, so the superintendent or principal on occasion has to substitute, and I query: does this bill prevent this, or would this bill prevent it, if it were enacted, and if so, have you made any provisions for emergency operations of the school bus?

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

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President and Members of the Senate: In answer to the Senator from Penobscot, Senator Tanous, if we enact it as it now is, that is just what it does. It prohibits any substitute driver from driving a

bus without having passed the regular school bus driver examination. I tried to explain this in full when I tried to kill the whole amendment originally.

The first part of the amendment, which requires examination for regular bus drivers before they can drive a bus, is perfectly all right with me but, as the good Senator has already brought out, there are several cases, especially in our rural areas, where there is an emergency, and I doubt sincerely that a superintendent or a teacher can go out and drive the bus because I have had experience with school boards, having been a school bus driver myself for 22 years, and they find a capable driver.

In the case of my own Town of Eliot we have had several past school bus drivers who now drive trucks, and are used to these large vehicles, whom they call in case of an emergency.

If we have to have substitute drivers all take these examinations, and the possibility that they are only going to drive a bus one or two days in an entire school year, we are going to run into all kinds of trouble. As the bill states, they can't drive a bus more than ten times during the school year with a substitute driver without having passed the school bus examination.

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

Mr. SPEERS: Mr. President and Members of the Senate: I can very well sympathize with the problems that many of the areas have with finding an adequate number of bus drivers. I would disagree with the Senator from York, Senator Hichens, when he states that this would prevent the school principal or superintendent from going out to drive the bus. It would prevent him from so doing had he not qualified as a qualified bus driver, and there would be nothing that would prevent all of the teachers in the school, and the principal and the superintendent of the school district themselves from applying and going through the test to become qualified bus drivers, and all of them could then be held in abeyance or in reserve,

so that if there is a problem in finding a bus driver on an emergency basis, then one of these individuals who would have been qualified could then take over.

I would like to read the section in the bill that is under discussion. The section that it refers to is the section qualifying school bus drivers. "This section shall not apply to a substitute or occasional driver who is not regularly employed as a school bus operator and who does not operate a school bus more than 10 days in any one school year." Now the House Amendment removes that exemption from the bill so that all substitute drivers would also have to be qualified bus drivers. The amendment that is before us at this moment removes that section from the House Amendment so that, in effect, it places this exemption back into the bill.

As I mentioned when this bill was originally debated, my feeling on the matter is this: that if we feel it important enough to require qualifications for school bus drivers on a regular basis, then I can see no justification for saying that 10 days out of any one school year we do not require qualifications for school bus drivers. It seems to me that we are almost playing a game of Russian Roulette with the safety of the children of this state. If we say that on a regular basis their drivers have to be qualified and go under a number of examinations, but that if an emergency arises on any one particular day, then practically anyone, or at least in the discretion of the superintendent or the principal or whoever calls an individual to ask him to drive the bus, that practically anyone can come in and drive the bus whether he is qualified or not, then we are putting the safety of the children on that particular day in jeopardy.

What this bill would do would be to insure that the school districts and superintendents take action to require that a backlog of qualified individuals be available to them to drive the buses on an emergency basis, and I don't feel we should take the chances even of those ten days out of any one school year. Therefore, Mr. President, I move the indefinite

postponement of this Senate Amendment "A" to House Amendment "A".

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that Senate Amendment "A" to House Amendment "A" be indefinitely postponed.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President and Members of the Senate: I would like to disagree with the Senator from Kennebec, Senator Speers. The basic question facing small towns — and I haven't been involved with the bill but I sure have been hearing about it in the last week or so — the basic question is: Shall we close down school or should the superintendent have a basic right to hire a competent man for that one shot deal to get the kids to school.

We haven't had certification of bus drivers for many, many years. Everything I read about the bus accident rate indicates that structurally it is the bus itself that is at fault far more than the driver. This seems to be a reasonable exclusion, and I would support the passage of the amendment and oppose the indefinite postponement.

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

Mr. ANDERSON: Mr. President and Members of the Senate: I received a communication from a member of the school board in Ellsworth this morning, and he is very concerned over the House Amendment. If you will bear with me I would like to read in part: "I am in favor of the bill requiring full-time bus drivers to meet specific qualifications and requirements. But I am opposed to the attached amendment requiring this of substitute drivers. As you know, in the small rural areas we have a tough job finding substitute drivers. I believe the hiring of substitute drivers should be left up to the superintendent or some other school official, and have that person responsible for the qualifications of substitute bus drivers. We need flexibility in hiring these substitutes. If this bill is passed, we will be unable to hire substitutes since they would have to meet

these strict requirements for driving the bus for perhaps a day. Nobody would be interested in the job. If we could not hire a bus driver for that day, it would cost a lot of money and the children would be missing more days of school. The children have too many days off now."

So, I am opposed and will support the movement to indefinitely postpone Senate Amendment "A" to House Amendment "A".

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

Mr. HICHENS: Mr. President, I would ask for a division.

The PRESIDENT: A division has been requested. The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I would ask for 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 less than one-fifth having arisen, a roll call is not ordered. As many Senators as are in favor of the motion of the Senator from Kennebec, Senator Speers, that the Senate indefinitely postpone Senate Amendment "A" to House Amendment "A" will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. Five Senators having voted in the affirmative, and 22 Senators having voted in the negative, the motion did not prevail.

Thereupon, Senate Amendment "A" to House Amendment "A" was Adopted and House Amendment "A", as Amended by Senate Amendment "A" thereto, 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 fifth tabled and specially assigned matter:

Bill, "An Act Creating a Study Commission on Environmental Laws." (S. P. 642) (L. D. 1977)

Tabled — June 1, 1973 by Senator Shute of Franklin.

Pending — Passage to be Engrossed.

Senate Amendment "A" (S-187)

Mr. Shute of Franklin then presented Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-198, was Read.

On further motion by the same Senator, tabled and Tomorrow Assigned, pending Adoption of Senate Amendment "B".

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

Bill, "An Act Relating to Self-insurance under Workmen's Compensation Law and to Create a Fund for Payment of Adjudicated Industrial Accident Claims Involving State Employees and to Establish a Safety Program." (H. P. 1528) (L. D. 1958)

Tabled — June 1, 1973 by Senator Berry of Cumberland.

Pending — Passage to be Engrossed.

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

Senate Amendment "A", Filing No. S-205, was Read.

The PRESIDENT: The Senator has the floor.

Mr. TANOUS: Mr. President and Members of the Senate: The amendment which I just offered is merely to clear up an area of the law. This creates a pool, this particular bill, for state employees and the highway employees, and we have to exclude the University of Maine employees because they come under a different budget. The purpose of this amendment is to exclude the University of Maine employees.

The PRESIDENT: Is it now the pleasure of the Senate to Adopt Senate Amendment "A".

The motion prevailed, and the Bill, as Amended, was Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

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

Bill "An Act to Create a Department of Marine Resources." (S. P. 637) (L. D. 1972)

Tabled — June 1, 1973 by Senator Speers of Kennebec.

Pending — Passage to be Engrossed.

Which was Passed to be Engrossed.

Sent down for concurrence.

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

House Reports — from the Committee on Public Utilities — Bill, "An Act to Provide Additional Requirements for Investigation of Railroad Company Accidents by the Public Utilities Commission." (H. P. 1411) (L. D. 1851) Majority Report, Ought to Pass in New Draft under Same Title. (H. P. 1540) (L. D. 1970); Minority Report, Ought Not to Pass.

Tabled — June 1, 1973 by Senator Berry of Cumberland.

Pending — Acceptance of Either Report.

On motion by Mr. Berry of Cumberland, the Majority Ought to Pass in New Draft Report of the Committee was Accepted in concurrence, the Bill in New Draft Read Once and Tomorrow Assigned for Second Reading.

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

Bill, "An Act Providing a Moratorium on Oil and Heavy Industry Development Along the Maine Coast." (S. P. 589) (L. D. 1807)

Tabled — April 24, 1973 by Senator Berry of Cumberland.

Pending — Passage to be Engrossed.

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

Mr. RICHARDSON: Mr. President and Members of the Senate: In 1970 Maine enacted historic law designed to protect itself against the consequences of a major oil spill. This law created

absolute liability, that is, without reference to issues of fault, provided that those who spill oil on the coast of Maine should be held absolutely accountable without the state being required to allege or prove negligence or willful or wanton misconduct. It provided that this liability for a spill would be unlimited, that is, not subject to that doctrine of the law of admiralty which permits the operator of a vessel to post the value of the vessel against the loss and escape further responsibility.

This bill established vicarious liability on the terminal operator providing that those who operate terminals are liable for the excess of the amount of the judgment beyond which the operator of the vessel is unable to go. It established a one-half cent per barrel transfer fee on those who convey oil, and the imposition of the fee is on the overwater transfer of oil.

I sponsored this L. D. 1807, establishing a moratorium on oil on the Maine coast, because in my judgment we did not then, at the time of that moratorium, have the protection of both the Site Selection Law and the Coastal Conveyance of Petroleum Law. We did not have that protection because immediately following the passage of what I viewed to have been our historic legislation in 1970, 10 oil companies, including American, Chevron, Cities Service, Getty, Gulf, Humble, Mobil, Shell, Sun, and Texaco joined with the Portland Pipe Line Corporation some three years ago to attack the Coastal Conveyance of Petroleum Law and impose a moratorium of their own.

I am very pleased today to report to you that the Supreme Judicial Court of Maine, in a 90-page decision signed by Mr. Justice Charles A. Pomeroy, has validated

each and every provision of the law enacted by this legislature in 1970. And while I am well aware that this same group of oil companies, still apparently unwilling to accept the responsibilities of good citizenship, can be expected to petition the Supreme Court of the United States for a writ of certiorari in order to continue litigating this bill, I am so confident of the result, and I believe so strongly that the Supreme Judicial Court of Maine is correct in its decision, that I feel that, with the full implementation of the Coastal Conveyance Act, there is no longer a necessity for an oil moratorium and I therefore, Mr. President and Members of the Senate, move that L. D. 1807 be indefinitely postponed.

The PRESIDENT: The Senator from Cumberland, Senator Richardson, now moves that Bill, "An Act Providing a Moratorium on Oil and Heavy Industry Development Along the Maine Coast", be indefinitely postponed. Is this the pleasure of the Senate?

The motion prevailed.

Sent down for concurrence.

On motion by Mr. Berry of Cumberland, the Senate voted to take from the table the fourth tabled and unassigned matter:

An Act Relating to Duration of Teachers' Contracts. (H. P. 384) (L. D. 1093)

Tabled — May 25, 1973 by Senator Berry of Cumberland.

Pending — Enactment.

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,

Adjourned until 9:30 tomorrow morning.