

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Sixth
Legislature*

OF THE

STATE OF MAINE

Volume III

June 6, 1973 to July 3, 1973

Index

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Monday, June 11, 1973

Senate called to order by the President.

Prayer by The Honorable Gerard P. (Prince) Conley of Portland

Reading of the Journal of yesterday.

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

Bill, "An Act Providing Pensions for Former Governors and their Widows." (S. P. 363) (L. D. 1077)

In the Senate June 6, 1973, Passed to be Engrossed as Amended by Committee Amendment "A" (S-115) as Amended by House Amendment "A" Thereto (H-400) and Senate Amendment "C" (S-211), in non-concurrence.

Comes from the House, Passed to be Engrossed as Amended by Senate Amendment "C", in non-concurrence.

(On motion by Mr. Berry of Cumberland, tabled until later in today's session, pending Consideration.)

Joint Order

WHEREAS, athletic competition develops sound minds and bodies in girls as well as boys despite any feminine mystique to the contrary; and

WHEREAS, athletic teams from various parts of the State assembled on June 2nd at Orono for the first state-wide track and field meet for girls; and

WHEREAS, the girls of Marshwood High School at Eliot persevered against all obstacles to win the first State Class A crown; now, therefore, be it

ORDERED, that the Senate concurring, that the Members of the House of Representatives and Senate of the 106th Legislature of the great and sovereign State of Maine salute the members and coach of Marshwood High School track and field team on their outstanding honor and accomplishment in the field of sports and offer the best wishes of a proud Legislature to our new State Champions; and be it further

ORDERED, that a suitable copy of this Order be transmitted forthwith to coach Rowell and principal

Botka of Marshwood High School in honor of the occasion. (H. P. 1593)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

Joint Order

ORDERED, the Senate concurring, that the Committee on Appropriations and Financial Affairs is directed to report out an emergency bill for appropriations to the Department of Indian Affairs, Office of Chief Medical Examiner and the Department of Transportation, Bureau of Aeronautics for necessary expenditures for the fiscal year ending June 30, 1973. (H. P. 1592)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

**Committee Reports
House**

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 Repealing the Personal Property Inventory and Stock in Trade Tax." (H. P. 1113) (L. D. 1449)

Leave to Withdraw

The Committee on Labor on Bill, "An Act Relating to Seasonal or Casual Farm Laborers under Workmen's Compensation Act." (H. P. 1204) (L. D. 1543)

Reported that the same be granted Leave to Withdraw.

The Committee on Transportation on Bill, "An Act Increasing Registration Fees for Trucks." (H. P. 1137) (L. D. 1472)

Reported that the same be granted Leave to Withdraw.

The Committee on Transportation on Bill, "An Act Increasing State Aid for Construction of Highways." (H. P. 671) (L. D. 876)

Reported that the same be granted Leave to Withdraw.

Come from the House, the reports Read and Accepted.

Which reports were Read and Accepted in concurrence.

Ought to Pass

The Committee on Education on Bill, "An Act Authorizing Plus New England Service of Maine, Inc., to Confer Associate Degrees." (H. P. 907) (L. D. 1195)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

Which report was Read.

On motion by Mr. Berry of Cumberland, tabled and Specially Assigned for June 13, 1973, pending Acceptance of the Committee Report.

The Committee on Education, on Bill, "An Act Relating to Tuition Contracts in School Administrative District No. 68." (H. P. 1548) (L. D. 1982)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

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

Ought to Pass - As Amended

The Committee on Judiciary on, Bill, "An Act Relating to Forfeiture of All Property Used in Delivering Illegal Drugs." (H. P. 623) (L. D. 821)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-508).

The Committee on Marine Resources on, Bill, "An Act Declaring Maine's Sovereignty for 260 Miles Seaward from its Boundaries." (H. P. 904) (L. D. 1192)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-517).

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.

Ought to Pass in New Draft

The Committee on Appropriation and Financial Affairs on, Bill, "An Act Adjusting State Employees' Pay." (H. P. 1159) (L. D. 1492)

Reported that the same Ought to Pass in New Draft under New Title: "An Act Increasing State, Maine Maritime Academy and Classified University of Maine Employees' Pay." (H. P. 1580) (L. D. 2006)

The Committee on Appropriations and Financial Affairs on, Bill, "An Act to Adjust Certain Salary Provisions of State Officers and Officials" (H. P. 573) (L. D. 752)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1581) (L. D. 2007)

Come from the House, the Bills, in New Draft, Passed to be Engrossed.

Which reports were Read and Accepted in concurrence the Bills in New Draft Read Once and Tomorrow Assigned for Second Reading.

The PRESIDENT: The Chair is very pleased to note the presence in the Senate Chamber this morning of the Vice Prime Minister of Quebec, the Honorable Gerard Levesque.

I would like to ask the Sergeant-at-Arms to escort the Vice Prime Minister to the rostrum for any remarks he might care to make.

Thereupon, the Sergeant-at-Arms escorted Mr. Levesque to the rostrum where he addressed the Senate as follows:

Mr. LEVESQUE: Thank you, Mr. President.

Last night I had the pleasure of meeting with you, Mr. President, and some of your colleagues I see here, and with Governor Curtis. I recall that last year we had a very important delegation from the State of Maine in Quebec City. We were really impressed by this delegation. We have established not only some kind of relations, but permanent official relations with the State of Maine. We are really proud of this. We are now on this return visit here with a delegation of the Province of Quebec.

We are in a working session this

morning, and we just wanted to say how pleased we were to continue not only being neighbors but being friends. You know how many of our Quebec people are here during the summer months; they kind of invade the State of Maine. We have many, many fields where we have common interests we can discuss, we can exchange ideas, and we can work together for the benefit and welfare of the people of Maine and the people of Quebec.

I am really impressed by the people working Monday morning. I am going to tell that to our people in Parliament, that they really work bright and early here in Augusta. Everybody is present, and this is wonderful. And I want to thank you once again for this very warm reception.

Thereupon, the Sergeant-at-Arms escorted Mr. Levesque from the Chamber, amid the applause of the Senate, the members rising.

Divided Report

The Majority of the Committee on Liquor Control on, Bill, "An Act Prohibiting Liquor Advertising." (H. P. 1284) (L. D. 1671)

Reported that the same Ought Not to Pass.

Signed:

Senator:

OLFENE

of Androscoggin

Representatives:

GENEST of Waterville

STILLINGS of Berwick

KELLEHER of Bangor

CRESSEY

of North Berwick

TANGUAY of Lewiston

RICKER of Lewiston

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass in New Draft under Same Title (H. P. 1577) (L. D. 2005)

Signed:

Senators:

SCHULTEN of Sagadahoc

FORTIER of Oxford

Representatives:

CHICK of Sanford

IMMONEN of West Paris

FARNHAM of Hampden

FAUCHER of Solon

Comes from the House, the Minority report Read and Accepted

and the Bill, in New Draft, Passed to be Engrossed.

Which reports were Read.

On motion by Mr. Olfene of Androscoggin, tabled and Tomorrow Assigned, pending Acceptance of Either Committee Reports.

Divided Report

The Majority of the Committee on Labor on, Bill, "An Act Relating to Agreements under Minimum Wage Law." (H. P. 1196) L. D. 1530)

Reported that the same Ought Not to Pass.

Signed:

Senators:

TANOUS of Penobscot

HUBER of Knox

Representatives:

FARLEY of Biddeford

ROLLINS of Dixfield

GARSOE of Cumberland

CHONKO of Topsham

BROWN of Augusta

McNALLY of Ellsworth

BINNETTE of Old Town

FLYNN of South 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-525).

Signed:

Senator:

KELLEY of Aroostook

Representatives:

HOBBS of Saco

McHENRY

of Madawaska

Comes from the House, the Majority Ought Not to Pass report Read and Accepted.

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

Senate

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 Relating to the Uniform Motor Vehicle Accident Reparations Act." (S. P. 419) L. D. 1425)

Bill, "An Act Providing for No-fault Automobile Insurance." (S. P. 580) (L. D. 1770)

Bill, "An Act to Establish the Maine Vehicle Reparat ions Commission and to Provide for Motor Vehicle Insurance Reform." (S. P. 596) (L. D. 1879)

Ought to Pass in New Draft

Mr. Sewall for the Committee on Appropriations and Financial Affairs on, Bill, "An Act Making Capital Construction and Improvement Appropriations from the General Fund for the Fiscal Years Ending June 30, 1974 and June 30, 1975." (S. P. 175) (L. D. 483)

Reported that the same Ought to Pass in New Draft under New Title: "An Act Making Capital Construction and Improvement Appropriations from the General Fund for the Fiscal Year Ending June 30, 1974" (S. P. 664) (L. D. 2020)

Which report was Read.

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

Mr. KATZ: Mr. President and Members of the Senate: I noticed that this is probably as large a capital construction bill as I can recall. I am also a little concerned that all the dollars in the capital construction program, which, by the way, represents a substantial increase over the Governor's program, is put in the first year of the biennium. I do not question the validity of any of the projects or the need for the projects at this moment, but I am concerned that in the process of using up so many dollars that it could very well jeopardize the use of dollars for other purposes such as school construction, such as tax reform.

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

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

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act Prohibiting Deceptive Practice by a Private Detective or Watch,

Guard or Patrol Agency." (S. P. 540) (L. D. 1692)

Reported that the same Ought Not to Pass.

Signed:

Senator:

TANOUS of Penobscot

Representatives:

BAKER of Orrington
WHEELER of Portland
CARRIER of Westbrook
HENLEY of Norway
KILROY of Portland
GAUTHIER of Sanford
WHITE of Guilford

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-226).

Signed:

Senators:

SPEERS of Kennebec
BRENNAN of Cumberland

Representatives:

PERKINS
of South Portland
McKERNAN of Bangor
DUNLEAVY

of Presque Isle

Which reports were Read.

On motion by Mr. Berry of Cumberland, tabled and Tomorrow Assigned, pending Acceptance of Either Report.

Second Readers

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

House

Bill, "An Act Relating to County Estimates." (H. P. 1549) (L. D. 1983)

Which was Read a Second Time.

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

Senate Amendment "A", Filing No. S-221, was Read.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: Senate Amendment "A" attempts to give some proportional representation to municipalities on this county government reform bill by allowing one extra representative on the county finance committee for every additional 10,000 population.

As I interpret the amendment, Lewiston and Auburn, to use the example of Androscoggin County, right now pay approximately 75 percent of the county tax. Under the present system of the legislature reviewing the budget, they have approximately that number of representatives reviewing that budget. Under this bill, as I understand it, they would have 33 percent of the vote, even though they pay 75 percent of the taxes. Lewiston pays approximately 50 percent of the county tax, and under this attempt at proportional representation Lewiston would have only 20 percent of the vote. Auburn pays approximately 25 percent of the county tax, and they would have something like one-eighth of the vote.

It seems to me that the intention is good here to move towards proportional representation, but I don't think it goes far enough. I certainly would oppose this amendment because it leaves the larger communities — and I am using Androscoggin only as an example, Mr. President and Members of the Senate— it leaves the larger cities at the mercy of the smaller towns in county government. I think this can be especially dangerous where many of the services provided by the counties are paid for by the larger communities, and yet they do not directly benefit the larger communities.

I notice that the good Senator from York, Senator Roberts, is not present. He was the Chairman of the County Government Committee, he has an interest in this bill, but I didn't want to let this amendment go under the hammer, and I would hope that one of my colleagues would table adoption of the amendment until Wednesday next so that both myself and the good Senator from York would be present.

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

Thereupon, on motion by Mr. Tanous of Penobscot, tabled and Specially Assigned for June 13, 1973, pending Adoption of Senate Amendment "A".

Bill, "An Act to Insure Permanent Funding of the Maine Law Enforcement and Criminal Justice Academy." (H. P. 1575) (L. D. 2004)

Which was Read a Second Time.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: I don't recollect any debate on this particular bill when we accepted the Ought to Pass Report, but I noticed in the bill this morning that 10 percent of the total fines collected by the courts will be allocated towards the Maine Law Enforcement and Criminal Justice Academy. It was mentioned that there would be curtailment of federal funds, and I would like to pose two questions through the Chair to the members of the Judiciary Committee: How much money does this 10 percent represent from the court fees to the Criminal Justice Academy, and is there really a necessity at the present time to have fear about the curtailment of federal funds?

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, has posed a question through the Chair which any member of the Committee may answer if he desires.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President and Members of the Senate: The proposed cost, or at least the anticipated cost, based on last year's cost of operation of the police academy, my recollection is that it amounted to about \$300,000 a year, so that this particular bill, if enacted, of course, would charge the district court fund by a similar sum. You will note though that the amendment on the bill calls for the approval of the legislature as far as the budget is concerned. It isn't a blanket appropriation of money. They still have to go through regular channels to get the approval of the legislature to get this money to operate the academy.

It is true, I guess, at least the information that we received from the officials of the academy, is that they anticipate the funds will run

out next year, and this was the reason for this proposed legislation. I would assume that if federal funds do not cease from funding this program, that the legislature would not approve the appropriation out of the district court fund. It is sort of a safety gadget that we hope to enact, and it doesn't necessarily have to transpire. Thank you.

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

Mr. BERRY: Mr. President and Members of the Senate: This bill caused me some concern when I first read it on the calendar last week, and it is causing me more concern the longer it is in front of us. The proposal for the physical installation of the Law Enforcement Academy was brought before the Legislative Research Committee a year ago, and the Research Committee very plainly went on record that it was not going to financially support this operation. The contingent costs here for the planned future expansion of the academy are tremendous.

I am not quarrelling with the purpose. I have, as many of you, inspected the operation and they are doing a tremendous job here in the state to upgrade our law enforcement personnel, particularly at the local level. But funding of this type should go through the Appropriations Committee in the regular channels of appropriating money. This is setting up a dedicated revenue procedure which is not in residence with the thinking of the legislature. We knew when this was being discussed earlier that the possibility of a cut off of federal funds was a very probable one, and this was brought out, discussed, and made known to the enforcement people before they embarked upon this program. I think they have lifted themselves up by their bootstraps and they have done a tremendous job. But in my opinion, this is not the vehicle to use to finance this operation. It should be done in the regular way by an L.D. appropriating the money and setting it up the way it should be so we know how much money is going to be appropriated.

As I say, the contingency costs of this in the future are tremendous. I think we cannot start now on a path of dedicated revenue which is going to lead, frankly, to the expenditure of tremendous sums sooner or later. Court costs should be kept where they are, to finance the court system.

I move that this bill and all accompanying papers be indefinitely postponed.

The PRESIDENT: The Senator from Cumberland, Senator Berry, now moves this bill be indefinitely postponed.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President and Members of the Senate: I would hope that this bill would not be indefinitely postponed. I think it is necessary legislation. If there are problems with the bill, let's amend it. Let's take it out of the legislative fund, and let's appropriate it through the legislature, if you so desire, but don't kill the bill.

We have legislation on the books that mandate police training in the State of Maine. You can't hire a police officer unless he receives training as a police officer to serve not only in municipalities but your state police as well. If we are going to cut the funds out, how will they be able to comply with the law if the academy has to close? It is a very serious problem. On one hand, we have a statute that says you have to have compulsory training of police officers. On the other hand, you take away money for the operation of the only academy that we have, and it just doesn't seem to make sense.

Don't kill the bill. Amend it to conform to what you feel will be agreeable to the legislators, and let's fulfill our prerogatives as legislators.

Presently our district court fund in Maine is a dedicated fund used principally for operations of your district court, and what is left over is apportioned to your counties. These moneys are raised as a result of fines, and these fines are paid by individuals that have been found guilty of crime. The argument is that where better can you finance the operation of a law enforcement academy other than

by moneys generated by those who cause the problems. This is the philosophy behind this.

Mind you, that the last sentence of that particular bill says that, "All moneys so credited to the Department of Public Safety shall be credited, apportioned and expended as provided by the legislature." So the legislature still has the final say as to whether these moneys are going to be credited. The academy will still have to come in and prove to the Appropriations Committee that they need X number of dollars. It doesn't have to amount to the 10 percent of the bill calls for. It can be five percent, six percent, or whatever amount that the legislature deems necessary for them to operate the academy. I would hope that you would keep this bill alive and vote against the motion of my good friend, Senator Berry, to indefinitely postpone this bill.

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

Mr. SPEERS: Mr. President and Members of the Senate: I would simply like to second what the good Senator from Penobscot, Senator Tanous, has been talking about, and I would like to inform the members of this body that not only are the police officers now mandated to have particular training, but the Committee on State Government has had and has been dealing with several bills during this session dealing with the question of mandatory training for not only the police officers, but we have been expanding this kind of qualification and training to other areas of law enforcement as well. The area of sheriffs and deputy sheriffs comes immediately to mind.

I think it would be a problem if we have on the books mandatory training for police officers and qualifications for police officers but no way to give them that kind of training. I agree with the good Senator that there are problems with this bill and perhaps it should be amended, but we should think very seriously about cutting off and eliminating the Law Enforcement Criminal Justice Academy.

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

Mr. BERRY: Mr. President and Members of the Senate: I think we should clearly understand the status of the Law Enforcement Academy at the present time. It is operating without any authorization for its existence or any funding whatsoever of any kind from state funds. It is an operation that is under way and it has never been authorized by the legislature or any arm of the legislature, by which I mean the Research Committee, nor is it getting a cent of state funds.

Needless to say, I am in total agreement with Senator Tanous and Senator Speers on the good work the academy is doing. You all know me for a staunch advocate of law and order, and all the state agencies need to be supported that are doing it.

As I recall the figure, it is contemplated that there will be some 1200 students go through that operation in a year when it reaches its design capacity. This is all being paid for now by federal funds essentially. My problem is that we cannot start state funding of such an operation without knowing just where we are heading. If the two Senators want to put an amendment on saying that money is appropriated from the general fund for this purpose, let's face up to the problem and do it that way. But this backdoor approach of taking some dedicated revenue now, and what amounts to rededicating it again, is not the way to handle the problem. Are we prepared in the legislature to fund to the extent of millions of dollars in the not too distant future when federal funds are cut out? I think that that question should be decided by the legislature.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Cumberland, Senator Berry, that Bill, "An Act to Insure Permanent Funding of the Maine Law Enforcement and Criminal Justice Academy", be indefinitely postponed. As many Senators as are

in favor of the motion to indefinitely postpone will please say "Yes"; those opposed "No".

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

Mr. TANOUS: Mr. President, I would ask for a roll call vote.

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

Obviously more than one-fifth having arisen, a roll call is ordered.

The pending motion before the Senate is the motion of the Senator from Cumberland, Senator Berry, that Bill, "An Act to Insure Permanent Funding of the Maine Law Enforcement and Criminal Justice Academy", be indefinitely postponed.

For what purpose does the Senator rise?

Mr. BERRY: Mr. President, a parliamentary inquiry.

The PRESIDENT: The Senator may state his inquiry.

Mr. BERRY: I understand that a roll call has been requested and ordered, but that the question has not been put to a final vote. If this is the case, I would withdraw my motion, if it is done on the basis that an amendment will be prepared putting in an appropriation from the general fund.

The PRESIDENT: The Senator from Cumberland, Senator Berry, now withdraws his motion to indefinitely postpone the bill. Is this the pleasure of the Senate? It is a vote.

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

Bill, "An Act to Provide a Maine Citizen's Preference on State Civil Service." (H. P. 678) (L. D. 885)

Which was Read a Second Time.

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

Senate Amendment "A", Filing No. S-224, was Read.

The PRESIDENT: The Senator has the floor.

Mr. SPEERS: Mr. President and Members of the Senate: As I mentioned when this bill was before this body some time ago, there were certain problems that the state personnel office had found with the bill as it originally was written and as the amendment in the House had created some of those problems. That office now has gotten together with the sponsor of this bill, and I have received word from the sponsor that she is amenable to the amendment. Therefore, I move the adoption of the amendment.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: As a member of the State Government Committee, we heard this bill in its original form, and it seems to me from my remembrance of this that one of the things the committee objected to in the bill was language such as in the amendment which says, "state government shall aggressively and actively encourage, foster and achieve employment of Maine residents by state government," which seemed to a substantial number of the committee to be saying that we are going to go out and beat the bushes for people to work for state government, and I think that the attitude of the legislature should not be that. I think we should keep the number of state employees down. I think that that statement in the bill would be misinterpreted, especially by certain department heads, to go out and swell their departments with Maine residents.

I thought that the bill was amended at one time to say merely that the legislature declares it a policy to give preference to Maine residents in making appointments, period. I certainly was willing to support that, but I am not willing, and I think it is a very dangerous thing to go out and put into the statutes something which says that any agency in the state government shall aggressively and

actively encourage, foster and achieve employment of Maine residents by state government. I think that is the kind of thing we should not be getting into, and I would move indefinite postponement of Senate Amendment "A".

The PRESIDENT: The Senator from Androscoggin, Senator Clifford, now moves that Senate Amendment "A" be indefinitely postponed.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: I certainly agree with my colleague on the Committee on State Government, the good Senator from Androscoggin, Senator Clifford. When this bill was originally reported out, the members of the Senate will recall there was a Majority Ought Not to Pass Report from the Committee. One of the things that the committee objected to was precisely the language that Senator Clifford mentioned, although the bill went even further than that in its original form in that it added, I believe, seven new employees to the Personnel Department, whose responsibilities would have been to do just what the language indicated, go out and aggressively seek new employees among Maine citizens for state government.

I don't really think that this language in this amendment, without creating the new positions in the Department of Personnel to do just this, is quite that objectionable. I think what is meant by this language is that where there are openings in state government that preference ought to be given to Maine residents over out-of-state residents. Now the amendment that came over from the House, and the bill in the form that it was in when it came over from the other body, tied the hands of the Personnel Office so drastically that it made it almost unworkable. One of the problems was simply that the Personnel Office would have been required to spend as much money advertising within the State of Maine as it would outside the State of Maine for a particular position. You can readily see where a problem would arise if a position

for a highly trained individual, psychiatrist, for example, were available and the Personnel Department had to advertise within the State of Maine and spend just as much money in Maine as it would outside the state for that position.

The advertising fees, of course, are much more expensive outside the State of Maine, and particularly in specialized medical journals, in which the department would have been expected to advertise. Yet it would have had to have thrown money away within the State of Maine in order to meet the requirements of this bill. That is the type of problem, technical administrative problem, that the Personnel Department saw in the bill as it was going through the legislature, and they got together with the sponsor of this measure to come up with an amendment that they felt would be workable. That amendment is Senate Amendment "A".

If the Senate goes along in rejecting this particular amendment, I would almost like to see the entire bill eliminated, and perhaps we can start over in trying to get something that would certainly be much more workable. But in its present form, I feel that it is necessary to make it workable that this amendment be adopted.

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

Mr. BRENNAN: Mr. President and Members of the Senate: I would oppose the indefinite postponement of this amendment. I think a bill like this makes a lot of sense. I think we ought to do what we can for Maine people first.

As I read the amendment, at least on the first page, I don't see this as an open sesame to go out and add additional employees. I see it just as an attempt to give some preference to people from Maine as far as becoming state employees are concerned. I think that is important that we do this, as opposed to out-of-staters, because I think Maine people share the knowledge of the state, its people and its problems much more so than someone who just

comes up from Boston. I think we ought to do everything we can to give them preference.

I haven't looked at the eight-page amendment in its entirety, but I hope we adopt it at this time, and if there have to be some modifications they can be made tomorrow. I seriously believe that we ought to do what we can, particularly in a state which suffers from substantial unemployment right now, as far as giving preference to Maine people. I am sure that if the state makes an effort, we can find many, many qualified Maine people for positions that are available.

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

Mr. BERRY: Mr. President and Members of the Senate: I would commend to the good Senator from Cumberland, Senator Brennan, a perusal of the amendment. I think he will find it quite interesting.

The philosophy here is a very dangerous one that this amendment and bill underscore. I invite to your attention the fact that Maine has a net outgoing balance of people looking for jobs. It is legislation of this type that can lead to retaliatory practices in other states where Maine people may be denied employment because we have such restrictions on our own books.

I think in the amendment itself, I take umbrage with words like "aggressively" and "actively"; I don't consider those words belong on our statute books. We are asked to differentiate between the news media. It says that in advertising, especially newspapers would receive preference in the advertising. There is a section in here that reads as follows: "In making appointments to any position on open competitive basis in the classified service, such appointments shall be limited to persons who have been residents of the State of Maine for at least one year." I think that is too restrictive. We might have a vital need for people in state employment who are not available. It says further that, "When names are certified for position in state service, Maine residents shall be

certified ahead of all non-residents. Non-resident eligibles placed upon registers under relevant statutory provisions," in the next section, "may be certified when there is an insufficient number of qualified Maine residents."

Then we come, toward the end of the amendment, to a philosophy of qualifications for people, and this applies to everybody applying for employment on the state roll, regardless of how or where they come from. It says, "No application for position in state government shall be rejected solely because the applicant lacks educational qualifications." I bring to your attention, Mr. President and Members of the Senate, that this is a tremendously sweeping philosophy we are asked to endorse. "No applicant shall be rejected solely because he lacks educational qualifications." On the face of it, this might strike you as being very fair, but what we will do here is that we will say education of a formal nature shall not be considered when we are going to list applicants for state service and this is wrong. We put a great deal of emphasis upon education in Maine. We ask people to complete courses, to graduate from school, to become proficient in their work, and now we are saying that if you don't do it, don't pay any attention to it, because the state officially doesn't say that educational qualifications are important.

So I think that the amendment is worse than the bill, perhaps. I think it sets a very, very dangerous precedent for Maine to establish. We are going to see ourselves shut off from other states when our people go to seek employment. So I would join very heartily with Senator Clifford in indefinite postponement of this amendment.

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

Mr. BRENNAN: Mr. President and Members of the Senate: Maybe as a Maine native I may suffer from some myopia here, and being a strong supporter of giving Maine people the first opportunity and a little edge, maybe one foot up. I think in Maine we haven't been

as fortunate possibly as some other states to have the educational advantages. Maybe they have spent more money and done it on a better basis in some other states, but I am not afraid to stand up here and say that I want to give Maine people the first opportunity.

In regard to this situation with educational opportunities, I think if you look at that section very closely it says, "No application for a position in state government shall be rejected solely because the applicant lacks educational qualifications." I recall to the good Senator from Cumberland, Senator Berry, that people like Admiral Rickover, people like Robert Frost, a lot of those people wouldn't be qualified under some of our stringent standards as far as teaching school. There isn't much question that they would be overly qualified as far as ability. I don't think we have to get locked into a situation, a fixed situation, where you have to have X degree of credits. I mean, just because one went to college doesn't mean that he is educated. It means he went to college and got a degree, and the door is open. I think we ought to give real consideration to other people. Sometimes a college hasn't done people all that good, and many who have stayed away and studied on their own could contribute a great deal more. I think we ought to review this very closely, and I am not a bit disturbed by that section. Again, I hope you vote against indefinite postponement of the amendment.

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

Mr. HICHENS: Mr. President and Members of the Senate: I too would rise to vote against indefinite postponement of this amendment. I know that this bill originated from studies of the investigating committee, of which I was chairman a year ago, and again I hate to bring those things up, but the Department made it very clear that they didn't bother with state people; they went out-of-state and got qualifications of people from all over the state. When you notice who the heads of our hospitals, our prison, and

so forth, and other important jobs of our departments throughout the state, you will see that no Maine person has been included. They are from Iowa, Vermont, Connecticut, New York, and all other states except the State of Maine.

In regard to this education, I have had personally people come to me and ask for help in obtaining Maine employment in some of these important positions. I have taken them to the departments concerned, and the very first thing they say is "You lack experience." Well, how in the world are they going to get experience unless we give them a chance to get that experience, and especially right in our own home state.

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

Mr. RICHARDSON: Mr. President and Members of the Senate: I am distressed to hear the Senator from Cumberland, Senator Brennan, suggest his myopia might be attributed to the fact that he is a native State-of-Mainer. I share that burden, Senator, and I am the first to recognize, or one of the early ones to recognize, some political mileage in this sort of debate. But really, frankly, Members of the Senate, this is sheer demagoguery of the worst kind.

I don't think that we should shackle state employment opportunities by unreasonable and restrictive residency requirements that could lead to state employment being a haven for mediocrities. I think it is sheer nonsense to talk about abolishing any educational requirement at all from employment in state government.

I am one of the first of those, I would assure the good Senator from Cumberland, Senator Brennan, who believes very strongly that there are a good many people who hold college degrees who are educated far beyond their understanding. That is to say that everything beyond the third grade was a waste of time. But I certainly don't think that the answer to encouraging Maine people to stay in Maine, and the answer to the problem of ending the outflow of our talent, particularly those who

are college graduates, is to adopt restrictive and narrow parochial legislation such as this. I shall, therefore, support the motion to indefinitely postpone the bill too.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: The reason I am speaking again on this — maybe because I am in politics, I am going to say I agree with both sides — but the thing that bothers me about this bill is that I think the language in it to allow state government to go out and aggressively and actively encourage, foster and achieve employment of Maine residents by state government. It doesn't say in relation to out-of-state residents; it says just to go out and get them. I think, from my knowledge of some of the departments in the State of Maine, and my knowledge of how the taxpayers feel about growing government, I think that is a dangerous statement to put in the statute, and I would think that that would be enough to indefinitely postpone this bill.

If another amendment is proposed which would be reasonable to giving preference, I would support it. I just don't support the notion of putting language in a statute to encourage department heads to go out and beat the bushes for more employees. I think we have had enough of that. Thank you.

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

Mr. KATZ: Mr. President and Members of the Senate: I would like to make three comments. First, we presently have preference for resident State-of-Mainers in our personnel laws. Second, some day I would just like to see the legislature stop talking about the Personnel Board and the Personnel Department, and put some dollars behind their talk to give us what we have never had, and which we don't have, and that is a professional personnel management system in the State of Maine. Third, I am very, very concerned that because we have so many federally funded dollars floating

around our various departments, and because the federal government is really gung-ho about what they call affirmative action programs, which require you to go outside of your immediate area in certain conditions to bring in a balanced kind of employment, and this conceivably could jeopardize our relationship with the feds in certain employment categories, I move that the bill and accompanying papers be indefinitely postponed.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that Bill, "An Act to Provide a Maine Citizen's Preference on State Civil Service," be indefinitely postponed.

The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: Again, I think there is an awful lot of fancy rhetoric, and we have gotten some lessons on demagoguery from experts on demagoguery, I suspect. I think it comes down to a question: shall we limit job opportunities to a certain elite? This bill says that that shouldn't be the sole discretion; that you can look at other things, you can look at comparable experience. Again, should people like Admiral Rickover, people like the late Robert Frost, should they be disqualified just become of some stringent locked in type qualifications, or do we have any confidence in our personnel people? I think that is what we are talking about here and, again, I am not afraid to say I would like to see Maine people have one foot up.

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

Mr. HICHENS: Mr. President, I would request a roll call.

The PRESIDENT: A roll call has been requested. In order for the Chair to order a roll call, under the Constitution, it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those 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 Kennebec, Senator Katz, that Bill, "An Act to Provide a Maine Citizen's Preference on State Civil Service", be indefinitely postponed.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: I would like to make my position clear on the record as to my vote in this roll call. I signed the Majority Ought Not to Pass Report on this particular bill for many of the reasons that have been discussed here this morning. I have offered this amendment in the hopes that some of these problems would be corrected. In all honesty, the Personnel Board had indicated that wherever possible they do give consideration to the fact that an individual is a State of Maine resident when they do apply for a particular position, and attempted to draft an amendment that would give recognition to that practice, their present practice, as the good Senator from Kennebec, Senator Katz, mentioned. There remain in the amendment, quite obviously, quite a number of sections which create several problems, but which the sponsor of this bill is very enthusiastic to include.

Number one, I offered this amendment to correct some of the problems that existed in the original bill. I felt that the original bill should not pass as it came out of committee, and signed the Ought Not to Pass Report for that reason. My feeling was that if it were to pass, it should be in some workable form, and that is the reason that I offered the amendment, to put the bill in workable form. I still feel the way that I did when I signed the report out of committee, that the bill has a number of problems. Quite obviously this amendment has not solved all of them.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Kennebec, Senator Katz, that Bill, "An Act to Provide a Maine Citizen's Preference on State Civil Service", be indefinitely postponed. A "Yes"

vote will be in favor of indefinite postponement; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Aldrich, Anderson, Berry, Clifford, Fortier, Grafam, Huber, Joly, Katz, Kelley, Morrell, Olfene, Peabody, Richardson, Speers, Tanous, Wym an, MacLeod.

NAYS: Senators Brennan, Cianchette, Conley, Cummings, Cyr, Danton, Greeley, Hichens, Marcotte, Minkowsky, Shute.

ABSENT: Senators Cox, Roberts, Schulten, Sewall.

A roll call was had. 18 Senators having voted in the affirmative, and 11 Senators having voted in the negative, with four Senators being absent, the Bill was Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

House - As Amended

Bill, "An Act Creating the Maine Motor Vehicle Certificate of Title and Anti-theft Act". (H. P. 1075) (L. D. 1455)

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

Bill, "An Act Relating to Regional Planning." (H. P. 1573) (L. D. 2003)

Which was Read a Second Time.

Mr. Berry of Cumberland then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-222, was Read.

The PRESIDENT: The Senator has the floor.

Mr. BERRY: Mr. President and Members of the Senate: Senate Amendment "A" provides guidelines for the consideration of measures that will be reviewed by the Regional Planning Commissions and the state agencies, and it says that all items \$200,000 and more, and those items involving more than one community, will be affected by the legislation, and the smaller items and those affecting one community may not be. I move the question.

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

The motion prevailed.
Thereupon, on motion by Mr. Speers of Kennebec, tabled and Tomorrow Assigned, pending Passage to be Engrossed.

Senate

Bill, "An Act Appropriating Funds for Sheltered Group Care Home for Girls." (S. P. 595) (L. D. 1878)

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

Sent down for concurrence.

Senate - As Amended

Bill, "An Act Relating to the Cost of Operation and Venue in the Superior Court." (S. P. 603) (L. D. 1897)

Bill, "An Act Relating to Possession of Firearms by Persons Convicted of Criminal Offenses." (S. P. 507) (L. D. 1596)

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

Sent down for concurrence.

Enactors

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

An Act Providing for a Credit in Maine Income Tax Law and Investment in Pollution Control Facilities. (S. P. 526) (L. D. 1656)

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

An Act Relating to Mobile Home Parks. (S. P. 630) (L. D. 1956)

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

An Act to Regulate Revolving Credit Accounts. (H. P. 45) (L. D. 52)

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

An Act Relating to Educational Assistance for Widows, Wives and Children of Veterans and Wives and Children of Prisoners of War. (H. P. 404) (L. D. 533)

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

An Act Relating to Educational Benefits for Dependents of Veterans and Prisoners of War and

Missing in Action. (H. P. 522) (L. D. 704)

(See Action later in today's session)

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

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)

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

An Act to Provide Additional Requirements for Investigation of Railroad Company Accidents by the Public Utilities Commission. (H. P. 1540) (L. D. 1970)

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)

An Act Relating to the Practice of Nursing. (H. P. 1555) (L. D. 1988)

An Act Relating to Penalty for Criminal Trespass in Buildings. (H. P. 1558) (L. D. 1991)

An Act Relating to Veterans Preference in State Employment. (H. P. 1560) (L. D. 1993)

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. Joly of Kennebec:

An Act Relating to Mobile Home Parks. (S. P. 630) (L. D. 1956)

Pending — Enactment.

The PRESIDENT: The Senator has the floor.

Mr. JOLY: Mr. President and Members of the Senate: In view of the fact that the Attorney General's Office has been conducting some hearings on mobile home parks, and this particular bill was written before they

even started the hearings, and it is our impression that they will have some really constructive legislation to propose at the next special session or the next session, I would now move indefinite postponement of this bill and all its accompanying papers.

The PRESIDENT: The Senator from Kennebec, Senator Joly, now moves that Bill, An Act Relating to Mobile Home Parks, be indefinitely postponed.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: This motion comes as a genuine surprise, as the sponsor of this matter. It is quite true that the Attorney General's Office has been conducting hearings throughout the state. These hearings have revealed a number of serious abuses on the part of mobile home parks. This bill was designed to alleviate some of those abuses and correct some of those abuses.

It is quite a good bill. It received a Majority Ought to Pass in New Draft Report from the committee in which it was heard. The bill has been amended to put back into it two sections that were amended out by that committee.

It may very well also be true that the bill was drafted before the hearings were held by the Attorney General's Office, but the Attorney General's Office was very well aware of the number of abuses that this bill seeks to correct before it held the hearings, and the hearings were held to find out if there were any additional problems that the office ought to be aware of.

I would oppose the motion of the good Senator from Kennebec, Senator Joly, to indefinitely postpone this bill.

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

Mr. RICHARDSON: Mr. President, I would inquire of the Senator from Kennebec, Senator Speers, as to the filing number of any amendments which are on this L. D. If I may, Mr. President, I would direct my inquiry to the Chair.

The PRESIDENT: H-495, H-480.

The Chair recognizes the Senator from Kennebec, Senator Joly.

Mr. JOLY: Mr. President and Members of the Senate: It is these amendments that have just been referred to that are causing the trouble. The original bill was heard in committee and the bill, as amended by the committee, as the good Senator from Kennebec, Senator Speers, has mentioned, did come out with a Majority Ought to Pass, and I think it was a pretty good vote at the time. But the amendments that have been put back in by another group are the ones that are causing trouble now.

The key one is that in the original bill there was some law saying that a mobile park operator could not make the people in the park all use one oil deliverer. What has happened in recent years is that mobile park dealers have made agreements with local oil dealers, found a good rate, and then made an agreement with him that he was to supply all the people in the park, and he gets a commission back on it, usually two cents a gallon. This also came up in various hearings around the state. Mobile park owners all testified to this fact. They claim they use the money for improvement of the park. The reason for this is much more basic than that. That is, if you have a small park with 30 or 40 trailers, and there are a dozen different oil companies in the area, they are all coming in day and night, with young children playing around, as they are in these mobile parks. Another problem is that nobody uses a large tank of oil, so that they run out, they call the dealer, and a lot of dealers don't care about making a special trip for one little tank of oil, especially if they have only one or two clients in the area. So that it makes pretty good sense. This was taken out of the bill. We felt that more work should be done on it.

We thought that the bill basically was a good bill. It took away the major problems. It gave tenants in mobile homes the right to have a 30-day notice, like you do in an apartment house, that they don't have today. It stops the

mobile home operators from making them buy from him various equipment. He could put up criterion for equipment on the park, but they could buy where they wanted to, and we thought it really cleaned up some of these major problems that are now facing the industry.

In view of the fact that the Attorney General's Office has been conducting these hearings, they have not finished them, they plan to do some more, we feel that this was a good bill as we put it out of committee. However, this amendment has caused a lot of trouble. We think it is going to be hard to manage. It is going to cause a lot of inconvenience, and in view of that, the reason for my motion.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Kennebec, Senator Joly, that An Act Relating to Mobile Home Parks, be indefinitely postponed. As many Senators as are in favor of the motion to indefinitely postpone the bill will please say "Yes"; those opposed "No".

The Chair, being in doubt, ordered a division. 13 Senators having voted in the affirmative, and 15 Senators having voted in the negative, the motion did not prevail.

Thereupon, on motion by Mr. Morrell of Cumberland, tabled and Tomorrow Assigned, pending Enactment.

Emergency

An Act to Allocate Money from the Federal Revenue Sharing Fund for the Fiscal Years Ending June 30, 1974 and June 30, 1975. (H. P. 341) (L. D. 456)

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

Reconsidered Matter

On motion by Mr. Sewall of Penobscot, the Senate voted to reconsider its prior action whereby An Act Relating to Educational

Benefits for Dependents of Veterans and Prisoners of War and Missing in Action, (H. P. 522) (L. D. 704), was Passed to be Enacted.

Thereupon, on further motion by the same Senator, placed on the Special Appropriations Table.

Orders of the Day

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

Bill, "An Act Equalizing the Financial Support to School Units." (H. P. 1561) (L. D. 1994)

Tabled — June 6, 1973 by Senator Katz of Kennebec.

Pending — Passage to be Engrossed.

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

Senate Amendment "A", Filing No. S-227, was Read.

Thereupon, on further motion by the same Senator, tabled and Specially Assigned for June 13, 1973, pending Adoption of Senate Amendment "A".

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

Bill, "An Act to Repeal the Minimum Age for Hospitalization of Mentally Ill Persons." (H. P. 1295) (L. D. 1707)

Tabled — June 8, 1973 by Senator Sewall of Penobscot.

Pending — Motion of Senator Hichens of York to Indefinitely Postpone the Bill.

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

Mr. SEWALL: Mr. President and Members of the Senate: I rise to oppose the motion of the good Senator from York, Senator Hichens, on having to do with the age of hospitalization of mentally ill persons.

This is a relatively simple concept, I believe, in that this bill would allow children under 18 years of age to be admitted to either Bangor State Hospital or Augusta State Hospital for Psychiatric Treatment if they had the approval and consent of their parents or guardians and the Director of the Department of Mental Health and Corrections. The pres-

ent facility at Pineland, the so-called CPA, Childrens Psychiatric Hospital, is rather a controversial building, and the programs therein I assume are also controversial, and have merited the attention of Senator Hichens and his extremely hard-working committee.

However, there are some changes in the wind, particularly as to the treatment of these children, and it is the recommendation of the department and certain other psychiatric advisers that this law be amended so that some of these children, a very few children, might be admitted to either Bangor State Hospital or the Augusta State Hospital. So therefore, Mr. President, I oppose the motion of the Senator from York, Senator Hichens, to indefinitely postpone this legislation.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: I would like to be on record as concurring fully with the remarks made by Senator Sewall in reference to this particular item. I sincerely hope that this item is not indefinitely postponed.

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

Mr. HICHENS: Mr. President and Members of the Senate: The reason for my motion last week was based specifically on a hearing which was conducted by the Health and Institutional Services Committee, the parents and staff of the children at the psychiatric hospital at Pineland, and the department directors, hospital heads and so forth. It was determined at that hearing that the children's psychiatric hospital would not be closed until alternatives were found. Many of the parents stood there that night and said that they did not want the alternatives as the State Hospital in Augusta and the State Hospital in Bangor for their children to be sent to.

This bill was incorrectly stated by the good Senator from Penobscot, Senator Sewall, as children under 18; it is children under 16. Anyone over 16 now can be ad-

mitted to these hospitals. These youngsters, and the parents of the youngsters especially, are very much concerned over allowing the children to be admitted to these two state hospitals, and they would rather have other alternatives open to the Department of Mental Health and Corrections.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from York, Senator Hichens, that Bill, "An Act to Repeal the Minimum Age for Hospitalization of Mentally Ill Persons", be indefinitely postponed. The Chair will order a division. As many Senators as are in favor of the motion to indefinitely postpone the bill will rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. Two Senators having voted in the affirmative, and 23 Senators having voted in the negative, 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.

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

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

Tabled — June 8, 1973 by Senator Richardson of Cumberland.

Pending — Passage to be Engrossed.

(Committee Amendment "A" S-194)

Which was Passed to be Engrossed.

Sent down for concurrence.

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

Senate Reports — from the Committee on Judiciary — Bill, "An Act to Regulate Prejudgment Attachment and Seizure of Property." (S. P. 477) (L. D. 1538) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass.

Tabled — June 8, 1973 by Senator Tanous of Penobscot.

Pending — Motion of Senator Tanous of Penobscot to accept the Majority Report.

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

Mr. BRENNAN: Mr. President and Members of the Senate: I would oppose the motion to accept the Majority Ought Not to Pass Report. What this bill comes down to, in essence, is whether or not people are entitled to a notice and hearing before their property is taken or encumbered.

The United States Supreme Court last summer, in the Fuentes decision, categorically stated that they are entitled to a hearing before their personal property, such as cars, are taken by the vehicle of using some state officer or a sheriff. I think a logical application of the principle embodied in that particular case would say that before someone's real estate is encumbered or lienied someone would be entitled to a hearing. That is what this bill does. It was a bill that was presented to me by Paul Wescott, an Attorney in Portland who does a great deal of work in the commercial field and was pretty much responsible for adapting the Uniform Commercial Code to the State of Maine. I am not certain whether or not it has the Bar Association endorsement, although I believe it does.

So, in effect, what this does is say that before your property is taken, lienied or encumbered, you are entitled to notice and hearing, with one or two exceptions which deal particularly with personal property where the property may be taken out of the state. So I would urge this Senate to vote against the motion to accept the Majority Ought to Pass Report.

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

Mr. TANOUS: Mr. President and Members of the Senate: The Majority Report is the Ought Not to Pass Report of the Committee. I think the thinking of the majority of the members of the committee

on this particular bill was that an individual by the name of Vincent McKusick, who is perhaps one of the most well recognized individuals in the State of Maine, who wrote a book on civil procedure with an individual by the name of Field, another attorney from Massachusetts — it is called The Field and McKusick Rules of Civil Procedure — he addressed the committee on this particular bill, and sent us a letter citing his reasons in opposition to it.

Basically his opposition to this bill is that the State of Maine has already amended its rules to conform with the Fuentes Case dealing with the prejudgment attachments. He feels that this particular bill goes much too far in granting special privileges to individuals who may be sued as a result of owing money to another individual. He just feels, according to his letter, that this particular bill would just about wipe out the relief of any creditor that he may have against the debtor, and he felt that the bill in its form went away too far in granting these privileges. For that reason he opposed it. Again Vincent McKusick felt that our present rules conform with the Fuentes decision and he felt that this legislation was unnecessary. Thank you.

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

Mr. BRENNAN: Mr. President and Members of the Senate: I am reluctant to get into a battle in regard to the respectabilities and wisdom of Vincent McKusick and Paul Wescott. They both are excellent, outstanding lawyers, and they disagree sharply on this issue. I think Mr. Wescott has related to me, in effect, that the present rule — to use the term that is much used around here out of the Attorney General's Office — is constitutionally suspect, and that is why this bill is needed.

I think it comes down to the basic question: Before your real estate is attached, which carries a certain stigma in the community, makes your property less alienable or less conveyable, do you think

that you should be entitled to a little notice to stop any frivolous attachments? Someone will say, "Well, if there is a frivolous attachment, an action can be brought for malicious prosecution." Well, once you throw in the word "malicious," it is virtually impossible to prove. All this is doing is putting somebody on notice, giving them a chance to be heard before some action like that is taken against them.

In some communities of our state, once there is an attachment of property, they seem to publicize it in the paper, and a person can be unfairly hurt. Again, all this bill is asking for is a little chance to be heard before he suffers that problem. Again, I would urge you to vote against the motion to accept the Majority Ought Not to Pass Report.

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

Mr. RICHARDSON: Mr. President and Members of the Senate: I know that there is perhaps nothing quite so uninteresting and possibly as unenlightening as hearing a group of lawyers in a room talking about some principle of law. But I would ask you, Members of the Senate, to just think for a moment of the fact that attachment is a means of effecting justice between people, and is really a pretty outmoded way of operating. We live in a transient society, and this business of attachment before judgment is probably one of the most abused collection practices existing in the United States.

Both of the distinguished lawyers who preceded me pointed out the court decision which grants some more protection to the attached debtor. But I think that this bill is a very reasonable protection against unjust and arbitrary attachments. I see nothing wrong with permitting a person who is a debtor an opportunity to be heard at a hearing and notice.

Therefore, I shall vote against the motion to accept the Ought Not to Pass Report, and hope that the members of the Senate between now and, hopefully, the enactment of this bill — I really hope that occurs — will look at the bill and

satisfy themselves, because it really just isn't as insidious as the Senator from Penobscot, Senator Tanous, would suggest.

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

Mr. TANOUS: Mr. President and Members of the Senate: I would like to comment on my good friend Senator Richardson's remarks on unjust and arbitrary attachments. To make a statement like that, one would have to make a major premise that all attachments are unjust. This is a decision you have to make as to whether or not you want to again remove a tool from an honest individual who is owed money from being able to attempt to collect his money.

There are liens that are put on buildings at times when an individual is owed money for either working on that particular building or selling the individual that is constructing that building supplies. You say this is unjust, and you can enact all kinds of legislation that you want to, to remove an unjust procedure, and when you find an attorney or an individual that commands his attorney to act unjustly, then you are going to enact legislation to prevent these one percenters, then you might as well take away all of the remedies that a creditor has on the books. And in so doing you are destroying the whole system of our economy. There is some justification for our system of economy as far as credit is concerned, and once you remove all of the rights of a creditor, in essence, you are going to reduce the loans and the sales under our present economic structure of time buying. This is the one major step in that direction.

I haven't seen any abuses. No abuses were presented to the Judiciary Committee relative to areas of unjust attachment. Now, it happens; there is no question about that, but I would say it would be in a very small minority, perhaps a one percent area. So you can penalize the 99 percent of those who are honest and trying to make a living to resist a one percent unjust attachment. Thank you.

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

Mr. SPEERS: Mr. President, could I ask the Secretary to read the Committee Report?

The PRESIDENT: The Secretary will read the Committee Report.

The SECRETARY: The Ought to Pass Report was signed by Senator Brennan of Cumberland, Representative Dunleavy of Presque Isle and Representative Wheeler of Portland. The Ought Not to Pass Report was signed by Senator Tanous of Penobscot and Speers of Kennebec, Representatives McKernan of Bangor, Perkins of South Portland, Carrier of Westbrook, White of Guilford, Kilroy of Portland, Henley of Norway, Baker of Orrington, and Gauthier of Sanford.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Penobscot, Senator Tanous, to accept the Majority Ought Not to Pass Report of the Committee on Bill, "An Act to Regulate Prejudgment Attachment and Seizure of Property." The Chair will order a division. As many Senators as are in favor of the motion to accept the Majority Ought Not to Pass Report will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. 21 Senators having voted in the affirmative, and seven Senators having voted in the negative, the Majority Ought Not to Pass Report of the Committee was Accepted.

Sent down for concurrence.

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

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

Tabled — June 8, 1973 by Senator Berry of Cumberland.

Pending — Passage to be Engrossed.

(Committee Amendment "A" H-471)

Mr. Berry of Cumberland then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-225, was Read.

The PRESIDENT: The Senator has the floor.

Mr. BERRY: Mr. President, this Senate Amendment provides that an unorganized township cannot take advantage of the existing law to become organized for the purpose of evading LURC decisions.

The possibility of this was brought up by the bill that Senator Richardson's Public Lands Committee reported out would change the Bigelow Mountain situation, and covers this possibility, which is a very definite one: an unorganized town, under our present law, could organize and establish its own rules and regulations merely for the purpose of evasion of LURC's requirements. The amendment merely says that if they do this, which of course they are perfectly able to do, that their zoning must be of a nature not less stringent than LURC's requirements which were in effect at the time.

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

Mr. CIANCHETTE: Mr. President and Members of the Senate: I am guilty of not understanding this L.D. that the amendment is being attached to. It is a lengthy bill, 851, that has gone through the Natural Resources Committee to amend the Land Use Regulation Commission laws.

This whole area bothers me, and I think it should bother you Senators. We are working on a double standard here in the State of Maine when it comes to land use regulation, and why we think we have the right here in this Senate body to set this double standard for people who live in cities and towns now, or people who don't, is beyond me. We are saying that the City of Augusta, because they don't have any zoning laws, it is my understanding, that as far as land use regulation goes, they can do just about anything they want to and they are not affected. Yet, you take an unorganized township, it operates under the rules of the Land Use Regulation Commission.

Now we are saying, "O.K., here is a new town. If you want to become organized, you shall meet standards that other towns and cities in this state don't have to meet by state law initiated in this legislature." I think it is ridiculous. I think we ought to face up to the fact, and if you want to pass a law here which says that the Land Use Regulation Commission shall regulate all towns, organized and unorganized, in the State of Maine, and properly fund them, I for one probably would support that. But when we state this double standard, and this is a real blatant, as far as I am concerned, double standard, we have got no business doing this sort of thing in the Senate. It simply says that people who are in unorganized territories now don't have the same rights as the other people in the State of Maine.

We know now another reason we should not accept this amendment is, in my opinion, that the Land Use Regulation Commission is far overworked, has too many responsibilities, and we have not properly funded them. I understand that their appropriation is being cut in this session. I had a conversation with Mr. Haskell, and he agrees that they are not properly funded to do the job. Their total funding, I think, is something less than \$100,000 to administer land use regulations on over 10 million acres in the State of Maine, half of the State of Maine. The City of Portland raises two or three times that much every year for their zoning actions. We are just creating a big farce here, and I am going to move the indefinite postponement of this amendment. I only wish I were more qualified to speak on L.D. 851.

THE PRESIDENT: The pending motion before the Senate is the motion of the Senator from Somerset, Senator Cianchette, that Senate Amendment "A" to L. D. 851 be indefinitely postponed.

The Chair recognizes the Senator from Cumberland, Senator Richardson.

MR. RICHARDSON: Mr. President and Members of the Senate: I certainly don't want to be in a position of at least any personal disagreement with the

previous speaker, who is a very fine member of this body, but I simply don't think that the situation he describes bears any real relationship to the actual fact.

The Site Selection Law is applicable in all the organized townships in the State of Maine. There is no question but what there is some duplication of present administrative practices, which, hopefully, can be cured by executive order, and by ultimate passage of the Department of Conservation Bill which will bring some of these agencies under one tent.

It is simply not correct to suggest that we are establishing a double standard. We have established standards with respect to the unorganized territories, some 10 million acres, which are directly related to the unique character of those 10 million acres and, as the sponsor of that legislation, I simply cannot sit in my seat and listen to it characterized as establishing a double standard. The standards are those applicable to the unorganized territories. There are very important considerations when you are dealing with organized territories that deal with municipal control over their own destiny, which I think are perfectly relevant and are a perfectly appropriate method by which to distinguish regulation in these two areas.

I am aware that the good Senator has a very difficult time getting along in his own heart and soul with some decisions of the Land Use Regulation Commission, but I don't think that the answer to that dissatisfaction with individual decisions ought to be used as a means of changing the essential character of the Land Use Regulation Commission's responsibilities.

The Public Lands Committee had before it this session a bill involving the Mountain Resorts Authority Act, passed by a previous session of the legislature. The problem that has been described is a very real one. You have the Land Use Regulation Commission, through a process of public hearing and consultation with the landowner involved, arriving at some

precipitate incorporation in a blatant effort to avoid the policy of the law which this legislature has adopted, and which is supported very strongly by the Governor, to his everlasting credit, and I really don't see any vice in this particular amendment.

Again, I think the good Senator's quarrel is with the administration of the law, and I share his concern. The law should be more efficiently and more effectively administered than it is. But it is like talking about apples and oranges, and the way to make it more effectively administered is not to try to attack an amendment like this.

Mr. President, when the vote is taken, I would request a roll call.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Somerset, Senator Cianchette.

Mr. CIANCHETTE: Mr. President and Members of the Senate: I feel I have a lot of explaining to do, maybe in the form of a question, but there seems to be a matter of difference of opinion here about whether we are adopting a double standard or not. I made those statements very clear, and the good Senator from Cumberland differs with my opinion. I just don't understand how we can say we do not have a double standard when this amendment clearly states that any unorganized territory, before it may become organized, shall submit a complete land use plan for its town, and it goes on — if you want to read the amendment, it is Filing S-225 — it clearly states this. No other town in the state has been asked to do this before this particular amendment, to my knowledge.

The Site Selection Law that applies to the City of Augusta goes in no way near the detail that the Land Use Regulation laws do in referring to an organized township. And if this LURC Committee has problems administering the 10 million acres of state land now, to throw another burden on them in asking them to operate effectively at this time on another whole aspect of an unorganized territory is asking too much, and

I think it is completely irresponsible. Thank you.

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

Mr. BERRY: Mr. President and Members of the Senate: I wish that the good Lord would give me the words to put in very understandable terms the fact that we do not have a double set of standards. This amendment says that there shall be a single set of standards, and that by organizing unorganized townships we shall not have a double set of standards. We are saying that an unorganized township that shall become organized shall abide by the rules that LURC had in effect for that township before it got unorganized. We are saying there shall be the same set of standards as applies to the ten million acres so it really is a single set of standards.

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

Thereupon, on motion by Mr. Danton of York, tabled and Tomorrow Assigned, pending the motion of Senator Cianchette of Somerset to Indefinitely Postpone Senate Amendment "A".

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

Bill, "An Act Creating Androscoggin County Commissioner Districts." (H. P. 271) (L. D. 378)

Tabled — June 8, 1973 by Senator Clifford of Androscoggin.

Pending — Passage to be Engrossed.

(Committee Amendment "A" (H-485)

(House Amendment "A" H-500)

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

Mr. OLFENE: Mr. President and Members of the Senate: Much to your surprise, and perhaps disbelief, the Androscoggin County delegation is in such harmony this year that we got all confused over in the other branch and put conflicting amendments onto this bill. I will not go into detail to tell you exactly, but they are in relation to how these districts were

divided into three equal areas. So on this basis, Members of the Senate, I would ask that we reconsider our action whereby we adopted Committee Amendment "A".

The PRESIDENT: The Senator from Androscoggin, Senator Olfene, now moves that the rules be suspended so the Senate can reconsider its action whereby it adopted Committee Amendment "A". Is this the pleasure of the Senate?

On further motion by the same Senator, Committee Amendment "A" was Indefinitely Postponed and the Bill Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

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

Joint Order — Relative to Judiciary Committee reporting out a bill clarifying Chapter 265 of the Public Laws of 1973. (H. P. 1591)

Tabled — June 8, 1973 by Senator Berry of Cumberland.

Pending — Passage.

Thereupon, the Joint Order received Passage in concurrence.

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

House Reports — from the Committee on Labor — Bill, "An Act Providing for Protection of Employee Pension Contributions." (H. P. 1401) (L. D. 1843) Majority Report — Ought to Pass as amended by Committee Amendment "A" (H-506); Minority Report — Ought Not to Pass.

Tabled — June 8, 1973 by Senator Tanous of Penobscot.

Pending — Motion of Senator Tanous of Penobscot to accept the Minority Report.

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

Mr. BRENNAN: Mr. President and Members of the Senate: I would oppose the acceptance of the Minority Ought Not to Pass Report of the Committee. Vesting in portability of pensions is an issue that is much discussed in this country today. I think it is a concept that makes an awful lot of

sense. If someone goes to work for a company and he has got 20 years, and say he is arbitrarily fired, everything he has goes down the drain. That seems to me to be an economic injustice.

I suspect that there was probably an excellent hearing on this particular piece of legislation before the committee, and I would like to get the views of those who are opposed to the concept of vesting in portability.

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

Mr. TANOUS: Mr. President and Members of the Senate: I apologize for not having been able to attend the public hearing on L. D. 1843, but I did receive quite a bit of information relative to L. D. 1843 from the members that were there, as well as from some interested parties.

My understanding is that this particular bill, if it were enacted, would deprive many of our pension funds, as we now see them, from having the exemptions in our federal income tax law. By so doing, you would see a decrease in your pension funds because they would no longer enjoy the benefit of being an exempt type of fund as the Internal Revenue Law recognizes.

Also, any new fund that would be created under L. D. 1843, they also would not enjoy the benefits of the Internal Revenue Exemption Law. As a result, I think you would find fewer pensions would be created.

I have a two page statement here that I could read to you which has come from the Maine State Building and Construction Trades Council from Portland, incidentally, Senator Brennan, from your area. They are definitely opposed to L. D. 1843 and enumerate their comments and reasons for being so opposed. They feel that it would presently hurt their particular union's pension fund by enactment of this particular bill, and also feel that any future pension funds would be harmed as a result of this. So I would urge that you vote to accept the Minority Ought Not to Pass Report on this bill. Thank you.

The PRESIDENT: 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 Providing for Protection of Employee Pension Contributions". 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 prevailed.

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

Bill, "An Act Providing Pensions for Former Governors and their Widows". (S. P. 363) (L. D. 1077)

Pending Consideration.

Thereupon, the Senate voted to Recede and Concur.

Reconsidered Matter

On motion by Mr. Anderson of Hancock, the Senate voted to reconsider its action of yesterday whereby on Bill, "An Act to Correct Errors and Inconsistencies in the Fish and Game Laws" (S. P. 645) (L. D. 1980), the Senate Indisted.

On further motion by the same Senator, the Senate voted to Recede from its former action whereby the Bill was Passed to be Engrossed.

On further motion by the same Senator, the Senate voted to recede from its prior action whereby Senate Amendment "A" was adopted. House Amendment "A" to Senate Amendment "A" was then Read and Indefinitely Postponed and Senate Amendment "A" adopted in non-concurrence.

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

Senate Amendment "B". Filing No. S-228, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

Mr. Tanous of Penobscot was granted unanimous consent to address the Senate:

Mr. TANOUS: Mr. President and Members of the Senate: I noted on our calendar this morning that all of the automobile insurance reform bills were reported out of the Business Legislation Committee unanimously Ought Not to Pass. The House calendar indicates that the other three bills that emanated from that body were also returned out of that particular committee with a unanimous Ought Not to Pass Report.

Needless to say, as Chairman of the Special Study Committee relative to automobile insurance reform, we spent a year and a half studying this most important subject and I think a most needed area of reform in the State Insurance Laws. I was indeed disappointed to see that this particular phase of our insurance law did not receive the reform that it probably should have at this session. I am not going back over the last few months to tell you that I had great reservations on how this started about in this legislative session. I could see the pitfalls in the area which we went into.

I fully recognized the very complex subject and how difficult it would be for any particular committee to work on this and contribute to these bills the hours it would have required to have been able to enact legislation at this session. That was five months ago, and now we are found not being able to enact on this, as I say, most important subject at this session. I thought the impetus was here when we started out in January. I guess by reason of an overly worked committee the impetus has left us and, hopefully, we can come back at the special session and act in this most needed area. Thank you.

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

Mr. BERRY: Mr. President and Members of the Senate: I am falling into the trap that I got up some time ago and complained about, and that is discussing the results of Rule 17-A. However, I will clear my conscience by saying I am addressing myself to the order

that Senator Cox was not here to introduce this morning, which is on page two of our calendar, and answer the comments of Senator Tanous.

Some time ago you will recall we passed an appropriation here by Joint Order, which was held up several days, needlessly, I might point out, to provide money for a computer survey of the cost of the various plans, and this was quite proper. We can agree with the philosophy of any one of the six "no fault" bills, particularly mine, and say that is the best legislation. However, until we know the actual cost involved to the policy holder, we in the Legislature are not in a position to properly evaluate the several bills.

As Senator Tanous has indicated, the committee has, under the guidance of Senator Cox, done an admirable job in analyzing the bills, but wanted the further information that a computer printout would give them. The company which was going to do the work advised

Senator Cox last week they would not be able to live up to their original commitment of supplying us with the information until after July 1st, and I am sure that we all agree that we just can't sit around here after July 1st waiting for this. So the recommendation of Senator Cox and his committee was that these bills be, in essence, referred to the next session, and that by the special session this evaluation will have been made. So, I think that the concern, quite properly expressed by Senator Tanous, has been answered, that the legislature has analyzed the problems insofar as it could with the information it had and that as the result of a computer analysis at the special session we will be able to make a very intelligent decision.

(Off Record Remrks)

On motion by Mr. Sewall of Penobscot,

Adjourned until 9:00 o'clock tomorrow morning.