

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

1st Special Session

OF THE

*One Hundred and Sixth
Legislature*

OF THE

STATE OF MAINE

1974

Kennebec Journal
Augusta, Maine

SENATE

Friday, February 15, 1974

Called to order by the President.

Prayer by the Rev. Herbert Reid of Fairfield:

Our most gracious Heavenly Father, we don't know what the future holds but we know who holds the future. Amen.

Reading of the Journal of yesterday.

Joint Order

Out of order and under suspension of the rules:

On motion by Mr. Berry of Cumberland,

ORDERED, the House concurring, that when the House and Senate adjourn, they adjourn to Tuesday, February 19, at 10 o'clock in the morning. (S. P. 907)

Which was Read and Passed.

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

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

Bill, "An Act to Eliminate Collection of Delinquent Accounts by the Treasurer of State." (S. P. 852) (L. D. 2420)

In the Senate February 7, 1974, Passed to be Engrossed.

Comes from the House, Passed to be Engrossed as Amended by House Amendment "A" (H-681), in non-concurrence.

Thereupon, the Senate voted to Recede and Concur.

Non-concurrent Matter

Bill, "An Act to Clarify the Real Estate Subdivision Law." (S. P. 890) (L. D. 2485)

In the Senate February 7, 1974, Passed to be Engrossed.

Comes from the House, Passed to be Engrossed as Amended by House Amendment "C" (H-689), in non-concurrence.

Thereupon, the Senate voted to Recede and Concur.

Joint Order

ORDERED, the Senate concurring, that the Joint Standing Committee on State Government be authorized and directed to report out one or more bills to cover the several subjects contained in

"AN ACT Relating to Certain Bureaus in the Department of Finance and Administration" (H. P. 1865) (L. D. 2359) of the 106th Legislature. (H. P. 1966)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

Joint Order

ORDERED, the Senate concurring, that the Joint Standing Committee on Election Laws of the First Special Session of the One Hundred and Sixth Legislature is directed to report out a bill which will:

1. Establish a filing deadline for Representatives to the Legislature in 1974.

2. Permit the use of multi-colored ballots for voting purposes.

3. Establish a fixed number of signatures required for a name to be placed on a ballot for the 1974 election. (H. P. 1968)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

**Communications
STATE OF MAINE**

House of Representatives

February 14, 1974

Hon. Harry N. Starbranch

Secretary of the Senate

106th Legislature

Dear Mr. Secretary:

Today the House voted to adhere to its action of February 7, 1974 whereby it indefinitely postponed H. P. 1836, L. D. 2327, AN ACT to Specifically Include Sundays in the Seasonal Date Limitations for Hunting in Commercial Shooting Areas.

Respectfully,

E. Louise Lincoln, Clerk

House of Representatives

Which was Read and Ordered Placed on File.

STATE OF MAINE

Office of the Secretary of State

February 15, 1974

To Harry N. Starbranch, Secretary of the Senate of the One Hundred and Sixth Legislature:

In compliance with the Constitution

and laws of the State of Maine, I hereby certify that a Special Election was held in State Senatorial District 33 on January 28, 1974, for the purpose of electing a State Senator to the One Hundred and Sixth Legislature to fill the vacancy caused by the death of Arnold S. Peabody of Houlton; that at said election Floyd M. Haskell of Houlton, having received a plurality of all votes cast in said election, as contained in a report submitted to the Governor and Council under date of February 6, 1974 appears to have been elected a Senator in the One Hundred and Sixth Legislature.

IN WITNESS WHEREOF, I have caused the Great Seal of the State of Maine to be hereunto affixed this fifteenth day of February, in the year of our Lord one thousand nine hundred and seventy-four and of the Independence of the United States of America, the one hundred and ninety-eighth.

Signed:

JOSEPH T. EDGAR
Secretary of State

Which was Read and Ordered Placed on File.

STATE OF MAINE

Office of the Secretary of State

February 15, 1974

To the Honorable Kenneth P. MacLeod, President of the Senate of the One Hundred and Sixth Legislature:

In compliance with the Constitution and laws of the State of Maine, I have the honor to herewith report the return of votes cast for State Senator to the One Hundred and Sixth Legislature in State Senatorial District 33 at the Special Election held January 28, 1974, according to a review of the returns made by the Governor and Council, to fill the vacancy caused by the death of Arnold S. Peabody of Houlton, as follows:

Floyd M. Haskell	
of Houlton received	2,024 votes
James H. Tweedie	
of Blaine received	1,853 votes
Louis Finemore, Write-in	2 votes
Joseph T. Edgar	
Secretary of State	

Which was Read and Ordered Placed on File.

Committee Reports

House

Leave to Withdraw

The Committee on Public Utilities on, Bill, "An Act Relating to Definition of Governmental Unit under Maine Municipal Bond Act." (H. P. 1675) (L. D. 2068)

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 — As Amended

The Committee on Human Resources on,

Bill, "An Act to Prevent Physically Handicapped Discrimination under Human Rights Act." (H. P. 1665) (L. D. 2058)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-663).

Comes from the House, the Bill Passed to be Engrossed as Amended by House Amendments "A" (H-668) and "C" (H-688).

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

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

Mr. BERRY: Mr. President, the bill comes to us with the Committee Amendment rejected and House Amendments "A", H-668, and "C", H-688, on the bill. These are more or less clarifying amendments. One straightens out some grammatical errors, even though it is about three pages long, and the second primarily defines what is meant by "physically handicapped" so that a person who has a handicap won't be put on a job that he just physically can't do. These are non-controversial and are explanatory amendments, and I move the indefinite postponement of Committee Amendment "A", H-663.

The PRESIDENT: The Senator from Cumberland, Senator Berry, now moves that Committee Amendment "A" be indefinitely postponed in concurrence. Is this the pleasure of the Senate?

The motion prevailed.

Thereupon, House Amendments "A"

and "C" were Read and Adopted in concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Judiciary on, Bill, "An Act Relating to Damages for Violating the Bulldozing of Rivers, Streams and Brooks Law." (H. P. 1820) (L. D. 2307)

Reported that the same Ought to Pass in New Draft under New Title: "An Act Relating to the Dredging, Filling or Otherwise Altering of Rivers, Streams and Brooks." (H. P. 1955) (L. D. 2490).

Comes from the House, the Bill in New Draft recommitted to the Committee on Judiciary.

Which report was Read.

On motion by Mr. Berry of Cumberland, the bill and accompanying papers were recommitted to the Committee on Judiciary 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 Expand the Authority of Pharmacists to Dispense Drugs by Their Generic Names." (S. P. 759) (L. D. 2190)

Leave to Withdraw Covered by Other Legislation

Mr. Conley for the Committee on Appropriations and Financial Affairs on, Bill, "An Act Appropriating Funds to Provide for the Operations of the Maine Criminal Justice Academy." (S. P. 813) (L. D. 2309)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

Which report was Read and Accepted.
Sent down for concurrence.

Ought to Pass

Mr. Katz for the Committee on Education on, Resolve, Authorizing the Commissioner of Educational and Cultural Services to Convey Certain Easement Rights at Southern Maine Vocational-Technical Institute in South Portland. (S. P. 886) (L. D. 2473)

Reported that the same Ought to Pass.

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

Ought to Pass — As Amended

Mr. Shute for the Committee on Transportation on, Bill, "An Act Relating to School Buses." (S. P. 722) (L. D. 2134)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-349).

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

Ought to Pass in New Draft

Mr. Speers for the Committee on Judiciary on, Bill, "An Act Relating to Hospitalization of the Mentally Ill." (S. P. 815) (L. D. 2312)

Reported that the same Ought to Pass in New Draft under Same Title (S. P. 908) (L. D. 2512)

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 Judiciary on, Bill, "An Act to Require District Attorneys to Prosecute all Criminal Cases before the District Courts." (S. P. 711) (L. D. 2123)

Reported that the same Ought Not to Pass.

Signed:

Senator:

TANOUS of Penobscot

Representatives:

DUNLEAVY of Presque Isle

WHEELER of Portland

KILROY of Portland

CARRIER of Westbrook

McKERNAN of Bangor

WHITE of Guilford

PERKINS of So. Portland

BAKER of Orrington

GAUTHIER of Sanford

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-351).

Signed:

Senator:

SPEERS of Kennebec

Which reports were Read.

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

Mr. SPEERS: Mr. President and Members of the Senate: We have really been over this ground before. If you will recall, this is the particular bill that allows the judges of the district court to request that the district attorneys prosecute the criminal cases that come before the district courts.

Very briefly, if we are going to have full-time district attorneys, as we will have next year, it is my contention that they should be required to prosecute the criminal cases that come before the court.

Now, the committee amendment that is on this bill as it is coming out of committee again is the same amendment that was put on in the Senate, providing the same safeguards that those that were concerned with the bill before indicated they would be able to support. I am a little surprised to see the committee report as it is on this bill, particularly since the good Senator from Penobscot had indicated before that he was able to support the bill with the Senate amendment on the bill when it went through the process before. But I do think that the judges of the district courts ought to have the authority to require the district attorneys who are going to be full-time to prosecute the criminal cases when they come to trial before these district courts. I would move acceptance of the Minority Ought to Pass as Amended Report.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the Senate accept the Minority Ought to Pass as Amended Report of the Committee.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President and Members of the Senate: As Senator Speers from Kennebec mentioned, of course, this is a similar bill that we debated, I guess, back on January 9, the first full week of the session, and the bill was recommitted to committee to study the proposed amendment and review the bill in its entirety, and this we did. We spent quite a bit of time in executive

session. Unfortunately, Senator Speers was busy in State Government and wasn't able to make either one of these exec. sessions.

The general feeling of the committee was such that this law isn't even in effect today. I mean, it isn't going to take effect until January 1, 1975. And in 1975 we will go to full-time district attorneys. Now, we are presently operating under a part-time system, and under the part-time system we have had some problems in areas where county attorneys or their assistants have not tended to the district courts as much as the judges perhaps would have wanted them to, but the feeling of the committee was that why not give the new district attorney law an opportunity to work, to see how it develops and to see whether or not the new elected officials on a full-time basis would provide the service voluntarily. Now, the feeling of the committee was that they would, and their feeling was that this bill at this time wasn't needed, and until somebody was able to give some evidence of need they just felt that this legislation should not pass at this time, unless it can be shown that there is a need in this area, that the new district attorneys on a full-time basis will not function perhaps as they should be doing. And the committee was almost unanimous in feeling that the new law ought to be given a chance to work before we pass any legislation trying to amend it. Thank you.

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

Mr. BERRY: Mr. President and Members of the Senate: As a layman, it seems inconceivable to me that there could be objections to a presiding judge requesting that the public prosecutor enter into a court case. It just seems to me that we see too frequently in the papers about cases being tossed out of court on minor technicalities, and it seems to me that if there were an attorney present representing the state, be it at any level, municipal, county or state, at the judge's request, that it is a very hard thing to quarrel with.

As everybody has said, we have gone over this before, and I certainly would

hope that we accept the Minority Ought to Pass as Amended Report.

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

Mr. SPEERS: Mr. President and Members of the Senate: The good Senator from Penobscot, Senator Tanous, mentioned that this was a similar bill to the one that we had discussed previously. It is not a similar bill; it is the same bill.

The law presently requires the county prosecutors to prosecute all the criminal cases that come before the superior courts in this state, and I see no reason why the law should not be amended to require as well that the district attorneys who are going to be full-time, require that they, at the request of the presiding judge, prosecute the cases before the district courts of this state as well.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I think the good Senator from Cumberland, Senator Berry, yesterday quoted the good Senator from Hancock, Senator Anderson, in saying that if we don't have a problem we ought not to pass a law. Perhaps this applies here. But I also think that we don't know what the problems will be under the new district court system, but perhaps there might be a problem, if this bill is passed, if there is conflict between the superior court and the district court. Oftentimes there is a little jurisdictional dispute when the superior court is sitting and when the district court is sitting, and it seems to me there might be a dispute arise as to where the district attorney or the assistant district attorney in that area might have to be. If he is requested by both judges to be in both courts at the same time, it seems to me he is in a quandary.

Perhaps the good Senator from Penobscot, Senator Tanous, is correct when he says why don't we see how the full-time district attorney system works out before we pass a law that might muddy the waters. Thank you, Mr. President.

The PRESIDENT: The Chair

recognizes the Senator from York, Senator Roberts.

Mr. ROBERTS: Mr. President and Members of the Senate: I have to disagree with the Senator from Androscoggin, Senator Clifford, because I believe that if there is any conflict, such as he suggests, that the inferior court, namely, the district court, will arrange its schedule so that the hearing can be held when the district attorney or assistant district attorney is available.

It is very difficult on the judge, and I have had this experience for years because when I was municipal judge you only had one county attorney and he was never available if you had superior court on, and down in York County we had quite a few sessions of superior court, even back then. You can't give a person anywhere near a fair trial, especially if you have got a fairly young officer that hasn't perhaps had much training. If he is the one that is putting the case on, you have got to help him and actually you have got to conduct the case and be the judge and so on, and it is not a fair situation. Yet, I know that the county attorneys and assistant county attorneys have been busy and they tend to, well, not pay much attention to the district court if they can possibly help it, if they are busy.

I think this would give the judge at least the right to request him and I don't think there would be any problem as far as scheduling. There is no problem in getting continuances in these cases, and I am sure that where a trial was indicated they could work out a schedule. I hope that the body will support the Minority Report.

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 to Pass as Amended Report of the Committee. The Chair will order a division. As many Senators as are in favor of accepting the Minority Ought to Pass as Amended 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. 17 Senators having voted in the affirmative, and six

Senators having voted in the negative, the motion prevailed.

Thereupon, the Bill was 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 the Budgetary Process of the Eleven New Regions for Vocational Education." (H. P. 1945) (L. D. 2479)

Which was Read a Second Time.

On motion by Mr. Katz of Kennebec, tabled and Specially Assigned for February 20, 1974, pending Passage to be Engrossed.

Senate

Bill, "An Act Making Current Service Appropriations from the General Fund and Allocating Money from the Federal Revenue Sharing Fund for the Fiscal Year Ending June 30, 1975." (S. P. 905) (L. D. 2508)

Which was Read a Second Time.

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

Enactors

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

An Act Relating to Fees for Inspection of Elevators. (S. P. 836) (L. D. 2377)

An Act Relating to Jurisdiction of the Boxing Commission. (H. P. 1880) (L. D. 2390)

An Act Relating to Organizational Change in Department of Transportation. (H. P. 1886) (L. D. 2396)

An Act Relating to the Land Damage Board. (H. P. 1887) (L. D. 2397)

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

Resolve, Reimbursing Southern Aroostook Community School District for Loss by Fire. (H. P. 1847) (L. D. 2340)

Resolve, to Reimburse Edgar W.

Tupper of Madison for Loss of Beehives by Bear. (H. P. 1900) (L. D. 2408)

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

Emergency

An Act Providing Emergency Funds for Staffing a Fuel Allocation Office Within the Bureau of Civil Defense for the Fiscal Year Ending June 30, 1974. (S. P. 834) (L. D. 2366)

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

Mr. HENLEY: Mr. President and Members of the Senate: This morning I am again opposing this bill and I cannot vote for it. I wish I could avoid speaking to you on this subject this morning in opposition to this bill. I have discussed it with many, and probably I have discussed it longer with myself.

To me, this represents a situation where we, the legislature, have been placed, in my opinion, in an untenable position. It is an area where there is before our eyes the actual speedy proliferation of bureaucracy. I mention this to accent the point that I contended the other day, and I still contend, that the department over there in the basement with 28 trained people — I say "trained" perhaps with reservations; they should be trained — and a director who should be trained, but probably under the circumstances hasn't had time, they should not be in a position where they need more personnel, regardless of the cost, at a time when we have, and I still maintain, a minor emergency.

This fuel shortage emergency, in the parlance of the very foundation of civil defense and public safety is a minor emergency because those 28 people through the years — and many of them have been there 20 years plus — have attended schools and special training courses in various parts of the United States, as well as conducting many courses right here — the very premise of the original civil defense law was to create a full-time force trained in the facing and the handling of emergencies, and I mean real emergencies,

emergencies whereby the State of Maine or other states that have a like law would be completely cut off from the rest of the country, emergencies where they would only have what was in the area for stocks and supplies, and emergencies where they should have standby plans for rationing of all vital supplies. If they do not have this training or this knowledge over there, if through the years it has been lost sight of, of course, I suppose the people of Maine could suffer.

I had enough experience in my work with civil defense as a local director and as a county director, not just playing around with it on the side, for over three solid years I had my own staff, conducted training programs, and had file cards and file papers of supplies, vital supplies, and I knew these things which they should know over there. I had index cards of every supplier of oil and fuel in my county, their average level of supplies, where their supplies came from, when they came, how often, their normal outgo. I had supplies of foodstuff and medical supplies that we had compiled. I had reason to believe that the State Civil Defense Agency should have been in a position to produce that same kind of service to the State of Maine.

That department cost roughly \$217,000 a year in recent years. They have one of the most sophisticated communication systems in the country. I am not critical of what they have done or what they have accomplished if they had arrived at a posture where they could handle this, and I insist minor, emergency. Minor because there is fuel coming into the state, minor because if the fuel is properly distributed and we, the users, are careful, there will be no great problem. Sure, there is a great problem to a few, a few who, if they read or hear what I say, will say that I don't know what I am talking about. But I do know what I am talking about. Instead of having all of our fuel cut off, as we could have in a major emergency, the handling of which this same group are supposed to be trained to take care of, we still are having up around 80-odd percent of our normal fuel supply.

Chronologically, here is what occurred: On the 8th of last November

we were in the middle of the first part of this emergency, and the powers that be decided that the then experienced Civil Defense Director, who had been in office enough years to find out what it was all about over there and probably knew the potentiality of his organization, was promoted to a better job. And he has all of my best wishes to go with him. He has been a friend of mine and I have no quarrel with the situation. I do quarrel with appointing at that time someone who had no background and no knowledge of what he had over there. It was in the middle of this minor emergency. I do not blame the present Director. He is a fine man, I have met him and would be glad to call him friend, but that does not substitute for experience. There is no substitute for experience. Immediately this new Director was handed this job of setting up a fuel allocation office, practically immediately. How was he to know that through this 20-odd years of the lifetime of Maine's Civil Defense and Public Safety — that is the other part of the name — that he was supposed to have had the people right on his staff that could do this? Of course he didn't know. He was handed an additional job and so he came for help. Then the Governor and Council, in their wisdom, on November 20th did not grant his \$42,000 additional that he wanted, but they did grant \$15,000. He started out with that, and then on December 5th he decided he needed more, and probably in his own judgment he did, and he stated for reasons that: "The case load of the State Fuel Office has increased to a point where additional personnel are required. This is particularly true as the office is open from 6:00 A.M. to midnight seven days weekly. The one knowledgeable person in the petroleum industry is currently funded by the dealers' association. Such funding ends November 30. It is anticipated that the case load will increase and regulatory requirements will have a greater impact, which will necessitate having trained, qualified personnel to administer the program." At this time on December 5th the Director asked for \$13,000, and he was granted \$7,588.20. Chronologically, that is where we stood at that time.

Then I presume at that time he had additional personnel, was training them to do this job of research and find out where the fuel was, where it came from, what the stocks were, and to phone to find out where they could transfer, etc. Fine. Then in January again there was another request for funds. The request this time was for EEA funds, and the Governor and Council granted EEA funds in the amount of \$28,600 to go until the end of the fiscal year, June 30. So as of now, for the additional Office of Fuel Allocation, Civil Defense has either in use or available \$51,188.20. Now, they want an additional \$37,000, I believe. This was originally \$45,000.

I have been told that it would be politically unwise if this bill did not pass. I don't quite see why. It seems to me that if this bill does not pass it merely means that the people that are already over there, the 28 original staff people, will have to be assigned heavier loads. And that is what should have been done in the first place, in my opinion. Now, it just seems to me that this is not like Shakespeare's Comedy of Errors, but it is a group of errors, in my opinion, that we had the potential for doing the whole thing right there with almost no additional money, possibly with the exception of telephones, postage, etc., but because of this situation of changing horses in midstream, having someone who had to learn the hard way - and Mr. Wilson was handed an additional job, he did not know that he should have the people there to do it, so he required the help and he has got the initial help to do it. He has got \$51,000, and I say it should stop right there. And I say that if they haven't got the personnel over there to do it, that they should perhaps get rid of some and get some that can, because amongst that group, with the equipment that they have to do it, they are supposed to have enough to handle a major emergency, and they certainly should have enough to handle this minor emergency.

I am not going to get up again on this bill, whether it goes through today and doesn't some other day or not, but I cannot vote for it. Thank you.

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

Mr. ANDERSON: Mr. President and Members of the Senate: I heartily concur with the remarks made by the Senator from Oxford, Senator Henley. I don't believe that there is any need of additional staffing to set up this bureau, and I shall vote with the good Senator from Oxford.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: Not being that familiar with all aspects of civil defense, but listening very attentively to the remarks made by Senator Henley of Oxford, I really concur with his thinking wholeheartedly.

A great deal of this energy emergency situation, I believe, has been predicated upon emotional and possibly impulsive decisions. In listening to the debate last week in reference to the so-called marriage between the Department of Transportation and Civil Defense, I had to chuckle because I really think it is a farce, in one respect, to camouflage the real thing that they are attempting to create or to do. In further analyzing some of the rhetoric that has materialized in these halls, really wasn't it the Department of Civil Defense and Public Safety that created their own particular problem in more or less frightening the people of the State of Maine into this energy emergency situation, with their so-called inward Watts line so people could report the difficulties they might be having.

Finally, Mr. President and Members of the Senate, further inquiries indicated clearly that when this energy emergency situation arose that all of a sudden people were asked from Inland Fish and Game to be displaced from their office space to create additional space for the Civil Defense people, and my findings to date have shown that this space which they vacated has not been used as anticipated by the people in Civil Defense for the so-called energy emergency situation. I intend to vote against this particular bill, Mr. President.

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

Mr. JOLY: Mr. President and Members of the Senate: I rise to agree with the good Senator from Oxford, Senator Henley. What bothers me is that when this thing first occurred someone didn't simply transfer some more bodies from some other departments of government, because we have got about 12,000 people working for the State of Maine. The executive office, I believe, is up to around 60 or 70, and I think back to Governor John Reed who had, I think, four or five personnel working for him. It just bothers me that we don't have the common sense to transfer people from one department to another when there is a problem that suddenly arises.

I used to do that when I was mayor of the City of Waterville with the police, fire and public works department; when we had a little problem we would transfer a few. We always transferred a girl from the assessor's office to the tax collector's office at a certain time of year when the money was coming in and they did a lot of clerical work. It is done in business and I don't see why it can't be done in the State of Maine. I certainly intend to vote against this bill also.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Sewall.

Mr. SEWALL: Mr. President and Members of the Senate: I would have to defer to the good Senator from Oxford, Senator Henley, as far as his knowledge and experience is concerned in the particular field we are discussing. I have every bit of admiration for him and for his stand. However, I would suggest that his definition of this present emergency might be more far-reaching than "minor". It is very hard for me to categorize the present shortage of energy which we read about and hear about - this morning on the television I noticed that many of the states now are talking about shutting down gasoline stations and various activities associated with them - so that I would take issue with his classification of the present period in time as being a minor crisis.

However, to reiterate some statements that have been made in the past, we too, we on the Appropriations Committee, have reservations about this

particular question of staffing additional people into the Office of Civil Defense and Emergency Preparedness, to the extent that we have only requested funds for the remainder of this fiscal year, and yesterday I appointed a subcommittee from the Appropriations Committee of three members to look at this entire department in an in-depth sort of a way to see whether or not additional funds would be necessary for the second year of this biennium. We also share many of the questions that the good Senator from Oxford, Senator Henley, has voiced here this morning, so we are going to sit down and give it very careful consideration as far as our recommendations for the next year are concerned.

However, I think we might be very ill-advised here this morning if we do turn down this money to keep in operation the present staff that has been trained now for two or three months to handle the crisis that we now are faced with. So hopefully you will support the committee recommendation this morning and let this measure be enacted.

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

Mr. BERRY: Mr. President and Members of the Senate: I agree with everything that Senator Henley, Senator Joly, and Senator Minkowsky have said, but they have omitted one thing, and that is that we reached a very good political compromise on this particular problem. We have arranged for the transfer of some bodies from one department to another, and I think this is a step in the direction that they would like to have us take, so I feel that we have done everything that can be done.

Certainly, as Senator Sewall has said, there is a need there. We haven't plumbed how deep the water is we are going across, and as this is ascertained by his committee perhaps this operation will be modified or eliminated in the future. It seems to me we have a very good compromise here, and I would urge everybody to vote for the bill.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Hancock, Senator Anderson.

On motion by Mr. Anderson of Hancock, a division was had. This being an emergency measure, and 19 Senators having voted in the affirmative, with nine Senators having voted in the negative, the Bill Failed of Final Enactment.

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

Mr. BERRY: Mr. President, having voted on the majority side, I now move that the Senate rrrrrreconsider its action whereby this bill failed of enactment.

The PRESIDENT: The Senator from Cumberland, Senator Berry, now moves that the Senate reconsider its action whereby this bill failed of enactment.

The Chair recognizes the same Senator.

Thereupon, on motion by Mr. Berry of Cumberland, tabled and Tomorrow Assigned, pending the motion by that same Senator to Reconsider.

Emergency

An Act Simplifying Variance Procedures Due to the Energy Crisis. (H. P. 1941) (L. D. 2478)

This being an emergency measure and having received the affirmative votes of 27 Members of the Senate, was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

Emergency

An Act to Increase the Indebtedness of the Ogunquit Sewer District. (H. P. 1818) (L. D. 2305)

This being an emergency measure and having received the affirmative votes of 25 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.

Orders of the Day

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

Bill, "An Act Providing for Maine Motor Vehicle Insurance Reform. (H. P. 1963) (L. D. 2504)

Tabled — February 14, 1974 by Senator Cox of Penobscot.

Pending — Reference.

Thereupon, the Bill was referred to the Committee on Business Legislation and Ordered Printed in concurrence.

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

Senate Reports — from the Committee on Liquor Control, Bill, "An Act Relating to Special Agency Stores and Store Hours Under the Liquor Laws." (S. P. 872) (L. D. 2440). Majority Report — Ought Not to Pass: Minority Report — Ought to Pass as amended by Committee Amendment "A" (S-348)

Tabled — February 14, 1974 by Senator Berry of Cumberland.

Pending — Acceptance of Either Report.

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

Mr. BERRY: Mr. President, it is a nice sunny day out, so I will move acceptance of the Minority Ought to Pass as Amended Report of the Committee.

The PRESIDENT: The Senator from Cumberland, Senator Berry, moves that the Senate accept the Minority Ought to Pass as Amended Report of the Committee.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President, I rise in opposition to that motion and would ask for a division when the motion is presented.

This bill on agency stores and store hours under the liquor laws has been one which has come before us on many legislative occasions, and now that the Longley Report has been presented to us, all of a sudden it is a wonderful recommendation apparently. But I read from the so-called Longley Report that there are nine stores with a volume of less than \$150,000 annually. I would like to know where these stores are and when they were opened, also the number of stores opened from 1965 to 1969. No one has apparently supplied this information.

But for your information, this agency store bill is not a new offering, by any means. In 1957, with 56 state stores, it

failed to pass. In 1965, with 90 stores, it failed to pass. In 1967, when I was first a member of the legislature, it was a lengthy bill discussed in the other body, of which I was then a member, and failed to pass in both bodies. In 1971, with 88 stores, it failed to pass. The state stores geographically cover every corner of the state.

This bill, if passed, creates a whole new field of enforcement and state audit procedures. I would ask a question this morning: Would these agencies be located in stores selling beer and wine? Pretty good, I say, for our agents. Can you imagine a grocery selling a regular customer \$35 to \$50 a week in groceries, refusing to sell him a bottle of liquor after hours? Enforcement inspectors and state auditors would be presented with something they couldn't cope with unless these procedures were put into law; not by rule and policy as our state stores now operate.

Where are the punitive measures in this bill? It is wide open. Remember that these agents are our agents. What a field day the liquor salesmen could have with individual agents, romancing them to carry their brands. They are now by law prohibited to push their wares at state stores. Our state stores carry about 550 items, and we all know that the agency stores would never have the space for 550 items.

I urge you this morning to vote against the motion.

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

Mr. JOLY: Mr. President and Members of the Senate: There is another thing that bothers me about this bill. I would probably look with considerable favor, at least, on the idea of going from state liquor stores to having liquor sold where someone has a license, but the idea of having one in many of our small towns where many times we have two grocery stores there now, two all-purpose stores, who is to decide which one of the two gets this? It gives an awful lot of power and authority to the bureau, and they could make or break many of our small businessmen. If you have two small stores in an area that are both doing a little business, then one of

them gets the liquor business, it just might be enough to put the other fellow out of business. A lot of politics could be played in this. For that reason, I would vote against this bill.

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

Mr. FORTIER: Mr. President and Members of the Senate: This bill apparently has been introduced as a means of providing income to the state. The statement of fact states that over a 10-year period it would probably produce \$1 million net. I would be very curious to know just exactly how they computed this \$1 million net. Let us go over some of the expenses that would probably be entailed.

Several years ago the Liquor Commission bought 100 cash registers at a cost of \$200,000, or \$2,000 apiece. I understand that the registers now required by the Commission, with the inflation, would probably cost approximately \$500 more, or \$2,500. I am also told by people who are well versed in these items that the shelving, the counters, the fixtures and so forth which would be provided by the state would probably average about \$12,000 per store. That is a total cost, besides the inventory, of \$14,500. Protracting that on the basis of 50 stores which are mentioned in the statement of fact, that would be three-quarters of a million dollars. That is besides the cost of the inventory.

Now, we know that over the past several sessions the Liquor Commission has complained about not having enough assets available to start these stores. You are going to start 50 more stores, and there is no mention here of cost. In other words, we are trying to infiltrate an original cost of over a million dollars and a protracted cost for administration for enforcement, which God only knows what it may be, and these figures will all be included in the so-called cost of keeping the store open.

A few years ago when we first heard the expression "keep the store open", it was related mostly to these so-called "mama and papa" stores. Today it is related to keeping open and opening more liquor stores, and is being

sponsored probably by one of the largest industries in the country. Regardless of the advantages or disadvantages of the state sponsoring the sale of liquor, simply from a financial viewpoint, I object greatly to increasing the overall cost of our administration of any one department, without even mentioning the cost in this bill, just taking it as a matter of fact, and at the next session we will simply be saddled with the prospect of finding the money.

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

Mr. BERRY: Mr. President and Members of the Senate: I would like to discuss this from a rather disinterested viewpoint from the welfare of the state, and not go back to the Volstead Act and a few other things.

In the first place, we are confusing the issue here. There is no need of the state going in and putting shelving in or forcing anybody to buy a lot of inventory or a lot of expensive cash registers, nor should the state do it either. We are not talking about every geographical corner of the state, far from it. We are talking about those areas of the state where there is not population density enough to warrant a liquor store based on the requirements of the State Liquor Commission. We are talking about providing the people of the rural areas and the people who go into the rural areas with a service which they expect and which they are at present denied.

We spend hundreds of thousands of dollars a year drawing people into the state, and when they get here a lot of them are deprived of what they think they have the right to get. We all know of isolated population centers in the state where liquor is purchased outside and brought in and resold and redistributed because of geographical isolation. This would stop this.

I emphasize that everything we are talking about is voted on by the local people. No store could do what is being suggested here unless it had the approval of the population involved.

Enforcement has been described as difficult. I dare say that every single store that becomes an agency store is at present selling beer, and there is going to be no problem in increasing the

enforcement over the situation as it exists there.

Now, this isn't the biggest thing in the world. I had the privilege and the honor one time of being Chairman of the Liquor Control Committee, and I found it a very interesting one, contrary to what has been the popular impression, and I think to raise up the issue of drys or drinking, or problems like this, is not fair to the issue nor to the people of this state nor to the people we invite in here. I think that this is a business we are talking about and we should not be confused when we are talking about the state having to spend a lot of money to do this. The state wouldn't have to spend a nickel to do this and do it right. I am sure the storeowners can put up the inventory and, my gosh, they have got a cash register now.

And I am not concerned whether the Democrats are going to organize the small storekeepers or the Republicans. I think they are all people in the State of Maine, they are in business now, and if this is going to help them out too, more luck to them. So I would ask my conferees here in the Senate to pay attention to me and don't listen too much to some of my opponents here.

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

Mr. KATZ: Mr. President and Members of the Senate: After the extraordinary lucid explanation of the Senator from Oxford, Senator Fortier, I really didn't feel that anybody would have enough nerve to get up and debate this any further, but it is a tribute to the courage of my good friend from Cumberland, Senator Berry, that he rose to the issue.

I disagree with the Senator from Cumberland, Senator Berry, who has the potential of making a good retailer after a few years experience perhaps and getting trained, but you don't take a bottle of booze and put it next to a bottle of Postoasties and get into the liquor business. And I subscribe that everything Senator Fortier said about the cost of putting liquor into a "mama and papa" grocery store which, incidentally, is a favorite target for every hoodlum you might come across.

The capital investment with the cost of

money today, whether it is undertaken by the state or by the "mama and papa" stores, is going to be enormous, and I feel that sometimes I am going to continue to ask the question of why do we need it? What human need is presently being unfilled? Is there anybody in the state today who is going dry and wants to drink himself into a little party on a Saturday night? If this is so, I would say the burden of proof is on those people who claim that this need is not being filled.

I find this bill particularly offensive. I identify in it not just an attempt to fill the needs of good people in the rural areas, but as a meaningful step in getting the state out of the liquor business. If you don't identify it as that, I would wave this prospect under your nose. When you vote, I hope you vote in this frame of mind. Mr. President, may I ask the pending motion.

The PRESIDENT: The pending motion is the motion of the Senator from Cumberland, Senator Berry, that the Senate accept the Minority Ought to Pass as Amended Report of the Committee.

Mr. KATZ: Mr. President, I move this bill be indefinitely postponed.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that Bill, "An Act Relating to Special Agency Stores and Store Hours Under the Liquor Laws", be indefinitely postponed.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President and Members of the Senate: I would have you note that the three Senators signing this report all agreed. This is a rare occasion during this 106th session because most of the reports have come out split as far as the senatorial findings were concerned. I feel that on this bill, along with another one we heard yesterday, when the three Senators agree that there must be really something good in their decision.

I also understand — it was my unfortunate experience not to be able to appear at the hearing — but there were only two people that spoke in favor of agency stores, along with the Commissioner, who apparently feels that his job is to promote sales and take

the position of promotion management for the Liquor Control Commission instead of being a control Commissioner as his appointed job is.

I served as co-chairman or House Chairman with the good Senator from Cumberland, Senator Berry, when he was Chairman of the Liquor Control Committee back two sessions ago and, as he said, it was a very interesting committee. Practically all of the reports that came out were nine to one in favor of further liberalization of our liquor laws, and I am not going to ask you this morning who you think the one was on these many bills. The agency store bill came out nine to one ought to pass in the 104th Legislative session. It was defeated then. I think with such a majority in favor and minority in that case, and the case we have of the nine to four committee report this time, that we can see our way clear to vote for indefinite postponement. I would ask for a roll call, Mr. President.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I would like to simply correct the record that the motion to indefinitely postpone was made by the Senator from Kennebec, Senator Katz.

The PRESIDENT: The Chair is in error and apologizes to the good Senator.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: I think that the Senator from Kennebec, Senator Speers, is missing a golden opportunity. He could have made the motion that is going to prevail here.

However, purely to have the record reflect the impartial facts here, as opposed to my good seatmate, Senator Katz from Kennebec, who seems to base his rationale on a certain modicum which I would say is characterized by a lack of facts, I would call our attention to what happened to the wines when this legislature in past years took them out of the liquor stores and put them on the shelf of public stores? We went from 72 brands to I think the last count was something like 1400 brands. I think these are the things we are talking about,

members of the Senate. So, if you would like to go along in the minority, then vote with me.

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

Mr. CIANCHETTE: Mr. President and Members of the Senate: I would like the Senate to take note here today that I am going to be voting with the Senator from York, Senator Hichens. It may be the first and last time on a bill such as this, but I think it is a memorable occasion. I would like to say that if we are talking economics, and apparently we are in this bill originated by the survey, then I believe a much more economical move for the state would be to take the state out of the retail business and put it in the hands of private enterprises where it belongs. So, I am going to be very happy today to vote for indefinite postponement on this bill.

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

Mr. SCHULTEN: Mr. President and Members of the Senate: I happen to be one of those Senators who signed this report and signed it Ought Not to Pass. I won't go into the reasons that I had for making my decision because I think these points have been well covered today.

However, I do think that I have some information here that might be helpful to the members of the Senate in casting their own vote, and that is a notice of a public hearing of the Legislative Committee on Liquor Control to be held next Wednesday at 1:30. The Bill to be heard is the Legislative Committee on Liquor Control's public hearing on Joint Senate Order S. P. 698 concerning "The possible effects of establishing private retailing outlets for liquor sales to determine whether the present state system or a free enterprise system would best serve the interests of the citizens of Maine." I feel that the merits of both sides of this particular problem would be brought out at a public hearing, and that we would gain really no credibility nor would we necessarily be making the wisest decision by trying to pass a bill that today is a matter of controversy.

So, for one more reason, I would urge

that we vote to indefinitely postpone this bill, that it is not the time for it. The results of the public hearing which will be reported back to the legislature will clearly identify the course that we should pursue in the best interests of the economy and the people of the state.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Kennebec, Senator Katz, that Bill, "An Act Relating to Special Agency Stores and Store Hours Under the Liquor Laws", be indefinitely postponed. 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 Kennebec, Senator Katz, that Bill, "An Act Relating to Special Agency Stores and Store Hours Under the Liquor Laws", 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 Anderson, Berry, Brennan, Cianchette, Clifford, Conley, Cox, Cummings, Cyr, Fortier, Graffam, Greeley, Henley, Hichens, Huber, Joly, Katz, Kelley, Marcotte, Minkowsky, Morrell, Roberts, Schulten, Shute, Tanous.

NAYS: Senators Speers, MacLeod.

ABSENT: Senators Danton, Olfene, Richardson, Sewall, Wyman.

A roll call was had. 25 Senators having voted in the affirmative, and two Senators having voted in the negative, with five Senators being absent, the bill and accompanying papers were Indefinitely Postponed.

Sent down for concurrence.

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

Bill, "An Act Lowering the Maximum Age of Juvenile Offenders. (S. P. 713) (L. D. 2125)

Tabled—February 14, 1974 by Senator Joly of Kennebec.

Pending—Motion of Senator Brennan of Cumberland to recede and concur.

(In Senate—Passed to be Engrossed as amended by Committee Amendment "A" (S-339) as amended by Senate Amendment "A" thereto (S-336)

(In House—Passed to be Engrossed as amended by Committee Amendment "A", in non-concurrence.

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

Mr. HICHENS: Mr. President and Members of the Senate: I rise in opposition to the motion. As the good Senator explained the other day, it seems too strict a penalty to put a juvenile in the Boys Reformatory or the Girls Correctional Center for a truancy charge, and I will agree with him, but I think that this should be amended so that they can be put on probation so that they may get the message that they can't skip school and carry on the way they have been doing since this bill was passed last October. We have had a lot of repercussions from superintendents, from principals, and from enforcement officials that these youngsters are just laughing at them and scorning all the rules and regulations as far as truants in the schools.

I would like to have this motion defeated, and then ask for a committee of conference so that we may get this straightened out and at least put notice on these youngsters that they can't run wild and free.

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

Mr. TANOUS: Mr. President and Members of the Senate: I rise in opposition to my good friend, Senator Hichens, not for the concept of his debate here this morning or his remarks, but perhaps in favor of at least saving this part of the bill. I fear that if we try to reinstitute the amendment that I had placed here last week on this bill, that we may well lose the entirety of the bill.

I placed that amendment on there because of problems that I was aware of that we were having in several of our larger communities in the state and perhaps some of the lesser sized

communities in the state. But there was a bill dealing with this particular amendment that I placed on the 17-year-old bill, the truancy bill, which was proposed and was turned down by the Reference of Bills Committee. It was denied admission in the Special Session. As a result, I had sponsored a return to the 17-year-old law for juveniles.

I talked with Senator Shute, who was interested in the truancy section of this, and Senator Joly from Kennebec. We have tried to put it on this bill but haven't been successful, and I would hate to lose the whole bill if we are going to try to stick to our guns on the truancy amendment. I would suggest perhaps a better avenue would be for someone to introduce an order for the Judiciary Committee to turn out a bill dealing with the truancy problem, rather than fooling around with this particular bill.

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

Mr. BRENNAN: Mr. President and Members of the Senate: This amendment that I would like to see killed really deals with the problem as to whether or not truants should be jailed. That is the issue, and I think the answer is clearly no, unless you are interested in providing material for the Men's Correctional Center and State's Prison.

Bill Hewes, who was Superintendent of the Boys Training Center for a number of years, advocated the same position. He thought it was ridiculous to have truants put at the Boys Training Center with those who are out there for robbery, for assault, and indeed for murder, that it really made no sense. As a matter of fact, the people they send there usually are just kids from the low income families. Those from means go on to some nice private school, which is good.

I think that we should support the motion to recede and concur so that there would be no chance to jail a truant. As far as providing for a situation with probation if they are truants, it wouldn't make any sense unless there was a sanction for violating probation, and the only sanction that could be imposed would be to put them in the Boys Training Center, which I would oppose again because you get back to the concept of jailing truants. I think that is

dead wrong. Most of the kids that are truants are having a frustrating experience in school. They are not winning academically, they are not winning athletically, and again they get pushed around the school yard, so they don't go back to school, and it is understandable. I think it is inhumane to try to jail those kids, so I would urge you to support the motion to recede and concur.

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

Mr. JOLY: Mr. President and Members of the Senate: I apologize for getting up again today but we have some very interesting things before us. I attended a meeting in Waterville recently with two or three other legislators, the superintendent of schools and the principals of several towns in northern Kennebec. We also had the Waterville juvenile officer there with us.

I sympathize completely with the remarks of Senator Brennan of Cumberland, we don't want to send young people for truancy to jail where they are going to be mixed up with more serious criminals, however, there is a point that we reach where this is the only alternative. Under the prior law, every effort was made before a young man or a young girl was sent to a jail. First they would be brought down to the court informally, with no charges, and they would talk with the judge. The judge would say, "All right, do you want to go to jail or do you want to go to school?" Well, you know what the choice was. So all right, he says, "We will let you go, and you go on back to school." Then if he continued to do this, he was brought in and the parents were brought in and again the judge would say, "All right, now you are going back to school but the first day you miss you are going to have to go to jail." Now, during this time other things were done. In the Waterville area they would have talks with the mental health people, they would have talks with the social welfare people, they would have talks with the parents and with the teachers. They made every effort they could to try to help these youngsters.

Now, what has happened under the law as we changed last year? This threat

doesn't hang over them at all and we are having more truancy than we have ever had before. It is going down as low as the grade school level. Recently in Fairfield, Maine they found eleven or twelve youngsters in one house, who were anywhere from 10 or 11 up to 15, 16, 17, all truants. And you know as well as I do when a bunch of kids hang around together for a few days eventually they are going to want to do something which may end up trying to get some money or doing some shoplifting. We have families where the 15 or 16-year-old gets in trouble and nothing happens to him, so the 14-year-old decides he or she can do the same thing, and it is a very, very serious problem.

I don't quite understand all of these amendments but I am hoping that this is not killed. Maybe something can be done, but it is a serious problem that the school authorities and our police authorities are very disturbed about, and I think it is very incumbent upon us to try to correct it.

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

Mr. KATZ: Mr. President and Members of the Senate: My big hang-up with the motion to recede and concur is that it very, very neatly completely sidesteps any attempt to answer the question before us. That is why I hope the motion to recede and concur is defeated, and at least we insist and ask for a committee of conference and try to solve the problem. It is a state-wide problem. It is not a problem of youngsters from low income families at all. It is a problem that exists right across the spectrum, where in many cases the parents will drop the youngster off at school, the youngster will go in the front door and walk down the corridor and come out the back door, and there is literally nothing, absolutely nothing that anybody can do about it. The potential for mischief is so horrendous that I think that we should try to do something about it. Let's apply whatever intelligence we have in a committee of conference and try to address itself. Consequently, I hope you will oppose the motion to recede and concur.

The PRESIDENT: The Chair

recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: I stand in support of receding and concurring. I think it is just another area where we recognize as parents that somewhere along the line the parents have failed, society has failed, and the answer is to hold a leverage over some 17 year old juvenile and try to solve a problem by throwing him in jail.

I think the good Senator from Cumberland, Senator Brennan, has quite clearly pointed out that there is no solution to the final problem. I think this is such a serious matter, Mr. President, that I would ask for a roll call to be taken on the motion to recede and concur.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President and Members of the Senate: In answer to the good Senator from Penobscot, Senator Tanous, I feel that the committee of conference can clarify this thing and really come out with something constructive. If we go along with this motion now, the whole thing is a dead issue. To put in an order to have another bill referred to Judiciary is a matter of frustration, I believe now, because it has to have the consensus of opinion from everybody and, with the discussion this morning, I can just see how far we would get on it. In all fairness to these youngsters, and I love youngsters just as much as anybody in this room — I have been associated with them all my life and I want to protect them — I think that having this committee of conference and coming out with something constructive is a way we can protect their future.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Cumberland, Senator Brennan, that the Senate recede and concur.

The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: I appreciate the alternative, but I think that this may require or force the communities, cities and state to come up with some alternative.

I have to take issue with my good friend from Kennebec, Senator Katz. The people that they send to these places for the most part are low income people. Those are the people that go to jail for the most part. Check the records out there. That is absolutely clear. Again, I think it is fine that those with the means can send someone to private school, but take a situation where someone is a truant, say in Madawaska, and they send him down to the Boys Training Center in South Portland some 350 miles away to think they are going to rehabilitate him. I think the state is the criminal in a case like that. Again, if they are from low income people, they usually have no visitors and it is ridiculous. Again, I would urge you to support the motion to recede and concur.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Cumberland, Senator Brennan, that the Senate recede and concur on Bill, "An Act Lowering the Maximum Age of Juvenile Offenders." 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 Brennan, that the Senate recede and concur on Bill, "An Act Lowering the Maximum Age of Juvenile Offenders". A "Yes" vote will be in favor of receding and concurring; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Berry, Brennan, Clifford, Conley, Cyr, Kelley, Marcotte, Minkowsky, Schulten, Tanous.

NAYS: Senators Anderson, Cianchette, Cox, Cummings, Fortier, Graffam, Greeley, Henley, Hichens, Huber, Joly, Katz, Morrell, Roberts, Shute, Speers, MacLeod.

ABSENT: Senators Danton, Olfene, Richardson, Sewall, Wyman.

A roll call was had. Ten Senators having voted in the affirmative, and 17

Senators having voted in the negative, with five Senators being absent, the motion did not prevail.

Thereupon, on motion by Mr. Hichens of York, the Senate voted to Insist and Ask for a Committee of Conference.

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

Senators:

HICHENS of York

SHUTE of Franklin

MINKOWSKY of Androscoggin

(See Action later in today's session)

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

Bill, "An Act to Clarify Election Procedure Respecting Jury Trials in Misdemeanor Proceedings. (S. P. 751) (L. D. 2161)

Tabled — February 14, 1974 by Senator Conley of Cumberland.

Pending — Consideration.

(In Senate — Passed to be Engrossed as amended by Committee Amendment "A" (S-340)

(In House — Majority Ought Not to Pass Report Accepted.)

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

Mr. TANOUS: Mr. President and Members of the Senate: L. D. 2161, Item 4 on the calendar under tabled matters today, was a bill by which we had attempted to clarify the procedures under a bill that we enacted at the last session relative to waiving jury trials in district court in an attempt to speed up the process of justice from the district court to superior court. Unfortunately, apparently the bill has run into a stumbling block and, from my observation, it looks virtually impossible to save this bill at this time. Many felt, I guess, probably due to the fact the law is relatively new, that it ought to be given more of an opportunity to be tested under the new operation before we attempt to amend or clarify the procedure. Under the circumstances, in order to save the taxpayers some time, I would move indefinite postponement of this bill.

The PRESIDENT: The Chair understands that the Senator from Penobscot, Senator Tanous, moves that

the Senate recede and concur with the House. Is this the pleasure of the Senate?

The motion prevailed.

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

Senate Report — from the Committee on Public Utilities — Resolve, Authorizing the Town of Bingham to Remove Sand Bars at Confluence of Austin Stream and Kennebec River. (S. P. 720) (L. D. 2132) Ought to Pass as amended by Committee Amendment "A" (S-337).

Tabled — February 14, 1974 by Senator Berry of Cumberland.

Pending — Acceptance of Report.

Mrs. Cummings of Penobscot then moved that the Senate accept the Ought to Pass as Amended Report of the Committee.

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

Mr. SPEERS: Mr. President and Members of the Senate: I think that the Senate should have some explanation to the import of this bill. As I understand it, in order for a town or a highway department or other department of the state to do any kind of dredging in a stream, or on the banks of a stream or a river of the state, that it needs the approval of the Department of Inland Fisheries and Game. This is a conservation matter, an environmental matter. In many instances, just the very slight alteration of a stream or a river of the state, that it needs the approval of the Department of Inland Fisheries and Game. This is a conservation matter, an environmental matter. In many instances, just the very slight alteration of a stream bed or the banks of a stream will have a very great effect upon the natural habitat of that stream and upon the worth of that stream as a stream in which game fish may be found.

As I understand this particular bill, and it is only a quick reading of it, so that is why I am asking for a further explanation, it would provide a means by which a town could circumvent the necessity of having the approval of the Department of Inland Fisheries and Game before they may undertake such

dredging or altering of a stream bed or the banks of that stream.

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

Mrs. CUMMINGS: Mr. President and Members of the Senate: Everything that the good Senator from Kennebec, Senator Speers, said is true, except that this particular bill applies only to the Town of Bingham, and in the bill is the amendment to limit it to three years. After that they will go right back on to the law that governs all the other towns that have any ideas of wanting to dredge the river.

In this particular instance there have been man made adjustments to the stream which have, in effect, caused flooding in that particular area that has created not only great property hazard but a possible hazard to life and limb. There was a conference with the Department of Fish and Game, the Bureau of Environmental Protection, and two or three other agencies that met, and they agreed that there were enough plans in the immediate future to take care of the potential flooding, so that should this dredging and bulldozing of sand away from Austin Stream, if that dredging was accomplished, that this would not have to be done again. In order to prevent this being done in a haphazard fashion, the committee did put in on its amendment the three-year limitation.

I think in this particular instance the ruling from the Attorney General was not a firm statement of fact, but rather an indication that it might not fit in with the rules and laws as we now have them on the books.

I would like to see this bill go through. I think it is of great benefit to the landowners along the banks of that stream. I am sorry they have built on a floodplain, but there is not much we can do about it now. I would hope that you would vote that it ought to pass.

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

Mr. SPEERS: Mr. President and Members of the Senate: I appreciate the explanation of the good Senator from Penobscot, Senator Cummings. I do

wonder though, if there had been a conference on the part of the Environmental Department, on the part of the town of Bingham, and on the part of the Inland Fisheries and Game, and there does seem to be an agreement among these individuals as to the need for changing the stream and the worth of changing the stream then why do we need a particular bill allowing the town to do so? As I understand the situation, the Department of Inland Fisheries and Game has refused to grant authorization, and I may well be wrong in that understanding, but as I understand it, that is the need for a particular bill, to circumvent the refusal of the department and have the legislature authorize the actual removal and construction and dredging that the town would like to have done.

I appreciate the fact that this is only in effect or will be in effect for only three years, but it really doesn't even take that long to so alter the structure in the stream bed to the point it may well be quite detrimental to the game fish of that stream. I am wondering if it would not be somewhat possible for the Department of Fish and Game and the officials in the town of Bingham to get together and try to arrange some method by which the game fish in that stream might be protected, whether it need to be by fishways or whatever. But I certainly don't want to stand in the way or create a roadblock for attempts to resolve the problems that the individuals have with the flooding over there. I just don't want this body not to realize what is being done and why we are being asked to authorize this bill.

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

Mrs. CUMMINGS: Mr. President and Members of the Senate: I think the main reason why this bill still is a necessity is because the Department of Inland Fish and Game would give the approval, I have been led to believe, but not to the extent of this bill. The original bill asked for dredging privileges or bulldozing privileges for 1200 feet. We amended it to read 4300 feet, and that is more than that department would allow. Other than that, I think that the original bill they would have accepted. The committee as

a whole was convinced that the larger area was really of necessity in this particular instance. So that is the reason for that.

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

Thereupon, on motion by Mr. Berry of Cumberland, retabled and Specially Assigned for February 20, 1974, pending the motion by Mrs. Cummings of Penobscot to accept the Ought to Pass as Amended Report of the Committee.

The PRESIDENT: By leave of the Senate, the Chair would ask the Senator from Androscoggin, Senator Minkowsky, to withdraw from the

Committee of Conference on Bill, "An Act Lowering the Maximum Age of Juvenile Offenders", (S. P. 713) (L. D. 2125). The Chair would replace Senator Minkowsky of Androscoggin with the Senator from Somerset, Senator Cianchette. The Chair was in error and did not notice that the Senator from Androscoggin, Senator Minkowsky, was not on the prevailing side.

(Off Record Remarks)

The Adjournment Order having been returned from the House, Read and Passed in concurrence, on Motion by Mr. Sewall of Penobscot, adjourned until Tuesday, February 19, 1974, at 10 o'clock in the morning.