

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

Volume II

MARCH 7, 1974 TO MARCH 29, 1974

Index

Legislative Ethics Committee Report

Kennebec Journal
Augusta, Maine

SENATE

Wednesday, March 13, 1974

Prayer by Rev. Father Nicholas Dufault of Biddeford:

Let us pray. O Lord our God, who came down from the heavens for the salvation of the human race, look down upon your servants and upon your inheritance, for your servants have bowed down their heads and bent their necks to you, O lover of mankind and source of all wisdom. Grant them, we beseech you, all things that are necessary for their salvation and grant peace and tranquility to the world. Remember, O Lord, these servants here assembled whom you have accounted worthy to be appointed over this land. Crown them with the armor of wisdom, the armor of truth, the armor of righteousness, and the armor of glory. Grant them deep peace that cannot be taken away. Speak good things to their hearts for all your people, that within their peace we may lead a Godly and honest life. Remember all the lawmakers and magistrates and our brethren in public office, and preserve the good in their goodness, that working always closely with them they may prosper in all their endeavors for the good of mankind. This we ask in the Lord, our God. Amen.

Reading of the Journal of yesterday.

Papers from the house Non-concurrent Matter

Bill, "An Act Providing for a Credit in Maine Income Tax Law for Investment in Pollution Control Facilities." (S. P. 737) (L. D. 2149)

In the Senate March 4, 1974, Passed to be Engrossed as Amended by Committee Amendment "B" (S-374).

Comes from the House, Passed to be Engrossed as Amended by Committee Amendment "B" (S-374) and House Amendment "A" (H-753), in non-concurrence.

On motion by Mr. Shute of Franklin, the Senate voted to Recede and Concur.

Joint Order

WHEREAS, the Lawrence High School Bulldogs have won the Eastern

Maine Class A Basketball Championship for 1974; and

WHEREAS, they have achieved a high standard of excellence and winning spirit distinctive of champions; and

WHEREAS, their activities and attitude reflect great credit upon the individual participants and their able coach and have brought honor to their school; now, therefore, be it

ORDERED, the Senate concurring, that we, the Members of the Senate and House of Representatives of the One Hundred and Sixth Legislature, now assembled in Special Legislative Session, take this opportunity to recognize and honor this outstanding basketball team and its coach for their accomplishments in the field of sports and wish them continued success in bringing honor to their community, school and state; and be it further

ORDERED, that duly attested copies of this Order be transmitted forthwith to the Principal and Coach of Lawrence High School in token of the sentiments expressed herein. (H. P. 2032)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

Joint Order

WHEREAS, legislation was proposed at the first special session of the 106th Legislature to abolish the assigned risk plan and to provide a reinsurance plan for sharing of losses by all insurers; and

WHEREAS, by this measure motorists would be able to go to the agency or company of their choice and be entitled to coverage if they have a valid driver's license and the money to pay their premiums; and

WHEREAS, the Joint Standing Committee on Business Legislation has referred this matter to the next Legislature affording an opportune time for needed study; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Council be directed to study the subject matter of "AN ACT to Abolish the Assigned Risk Plan and to Establish the Maine Motor Vehicle Re-insurance Facility," H. P. 1860, L. D. 2365, as introduced at the first special session of the 106th Legislature to

determine whether or not the best interests of the State would be served by enactment of such legislation; and be it further

ORDERED, that the Council report its findings, together with any necessary recommendations and implementing legislation, at the next regular session of the Legislature. (H. P. 2033)

Comes from the House, Read and Passed.

Which was Read.

On motion by Mr. Berry of Cumberland, tabled, pending Passage.

Orders

On motion by Mr. Katz of Kennebec,

WHEREAS, present day legislative services involve widespread use of reproduced and printed materials such as legislative documents, amendments, resolutions, orders, copies of Acts, journals, calendars, legislative records, registers of bills and resolves, registers of House and Senate, letters, budgets, committee reports and similar House and Senate papers; and

WHEREAS, the sheer variety and bulk of these materials presents today's Legislature with a continuing printing and duplication problem; and

WHEREAS, this problem is essentially one of making even more efficient and effective the duplication of these needed materials while at the same time assuring that costs are minimal; now, therefore, be it

ORDERED, the House concurring, that the Legislative Council is requested to inquire into procedures and pricing of legislative printing practices with particular emphasis on the feasibility of competitive bidding procedures in whole or part as to the legislative printing requirements. Such inquiries shall consider factors such as delivery, performance and accuracy in performance of printing requirements, as well as availability of physical printing and reproduction facilities necessary and desirable as fulfilling legislative printing requirements; and be it further

ORDERED, that the Council report the results of its study, including any needed legislation, at the next regular session of the Legislature. (S. P. 935)

Which was Read.

On motion by Mr. Berry of Cumberland, tabled pending Passage.

Committee Reports

House

Ought to Pass in New Draft

The Committee on Education, Bill, "An Act Relating to Representation of School Administrative Districts." (H. P. 1842) (L. D. 2334)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 2020) (L. D. 2563).

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

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

The Committee on Appropriations and Financial Affairs on, Bill, "An Act Adjusting State Employees Pay." (H. P. 1724) (L. D. 2168)

Reported that the same Ought to Pass in New Draft under New Title: "An Act Advancing the Effective Date of a Pay Adjustment for State, Maine Maritime Academy and Classified and Unclassified University of Maine Employees" (H. P. 2022) (L. D. 2565)

Comes from the House, the Bill in New Draft Passed to be Engrossed as Amended by House Amendment "A" (H-748).

Which report was Read and Accepted in concurrence and the Bill in New Draft Read Once. House Amendment "A" was Read.

Mr. Conley of Cumberland then presented Senate Amendment "A" to House Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-392, to House Amendment "A" was Read.

The PRESIDENT: The Senator has the floor.

Mr. CONLEY: Mr. President, I would like to inform the Senate that this amendment is to correct an error that was made at the time the bill was reported out of the Appropriations Committee.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate

Amendment "A" to House Amendment "A"?

Thereupon, Senate Amendment "A" to the House Amendment "A" was Adopted and House Amendment "A", as Amended by Senate Amendment "A" There to, was Adopted in non-concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

The Committee on Appropriations and Financial Affairs on, Bill, "An Act Making Additional Appropriations from the General Fund for the Current Fiscal Year Ending June 30, 1974, Allocations for the Administrative Expense of the Bureau of Alcoholic Beverages, and the State Lottery Commission and Changing Certain Provisions of the Law Necessary to the Proper Operation of State Government." (H. P. 1813) (L. D. 2294)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 2028) (L. D. 2569)

Comes from the House, the Bill in New Draft Passed to be Engrossed as Amended by House Amendment "A" (H-750).

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

Divided Report

The Majority of the Committee on Natural Resources on, Bill, "An Act Authorizing a Study of Maine's Forest Products Industry." (H. P. 1952) (L. D. 2498)

Reported that the same Ought to Pass in New Draft under New Title: "An Act Authorizing a Study of Maine's Forest Resources and of Opportunities for their Better Utilization" (H. P. 2026) (L. D. 2567)

Signed:

Senators:

CUMMINGS of Penobscot
MARCOTTE of York

Representatives:

MacLEOD of Bar Harbor
BRIGGS of Caribou
HERRICK of Harmony
BERUBE of Lewiston
CURRAN of Bangor

ROLDE of York
HUBER of Falmouth
PETERSON of Windham

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

Signed:

Representative:

SMITH of Exeter

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

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

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

Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act Providing for No-Fault Motor Vehicle Insurance." (H. P. 1938) (L. D. 2475)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-738).

Signed:

Senators:

COX of Penobscot
KATZ of Kennebec
MARCOTTE of York

Representatives:

MADDOX of Vinalhaven
HAMBLIN of Gorham
TRASK of Milo
DESHAIES of Westbrook
DONAGHY of Lubec
JACKSON of Yarmouth

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

Signed:

Representatives:

TIERNEY of Durham
CLARK of Freeport
BOUDREAU of Portland
O'BRIEN of Portland

Comes from the House, Bill and accompanying papers Indefinitely Postponed.

Which reports were Read.

Mr. Cox of Penobscot then moved that the Senate Accept the Majority Ought to Pass Report of the Committee in non-concurrence.

The PRESIDENT: The Senator has the floor.

Mr. COX: Mr. President, I have some lengthy remarks today that I did not plan to make, but I have had several requests that I do, so if you will please bear with me.

What is no-fault? No-fault is a kind of insurance that will give people what they need but don't have — fast and adequate payments of financial losses caused by auto accidents.

Today, if there's an auto accident, you have to worry about whose fault it was, whether the insurance company is going to pay, and whether it will take a court case to get you the money. No-fault would change all this.

In theory, under today's fault system, your insurance company protects you by covering the other person's losses if there's a car accident which is your fault. The system is supposed to be fast, fair and inexpensive. In practice, it may take a lawsuit to determine who's at fault. And under the fault system, even if you were hurt worse than the other person and were out of work longer, you can't collect anything from his insurance company if the accident was even partly your fault.

Under no-fault, the insurer would not have to decide whose fault the accident was and no one would have to lie about how it was somebody else's fault. Your insurance company would pay your losses; the other person's insurance company would pay his losses. By getting rid of the fighting and faking, no-fault would give more insurance benefits to more people at a lower cost.

Is no-fault a new idea? No, it is not. Almost all insurance is already no-fault. Life insurance is no-fault insurance. No matter how you die, unless it's suicide, a life insurance company pays without asking who is a fault.

Fire insurance and homeowner's insurance are no-fault. So is health and accident insurance. And Blue Cross and Blue Shield don't ask whose fault it was before paying for your broken ankle. If you need medical care, you get paid. As a matter of fact, no-fault isn't even a new idea for car insurance. If there's a storm today and a tree falls on your car, you collect the repair cost from your own insurance company without determining

fault. There's no question of fault under the comprehensive automobile coverage you buy to cover your own losses. The same thing goes for your collision coverage. Even if the accident's your fault, your insurance company will still pay for the repairs to your car.

The no-fault insurance everyone's talking about now will replace your auto liability coverage, where about half your premiums go. Liability insurance protects you from claims by other people after an accident that was your fault. Instead of buying liability insurance to protect other people you might hurt, you'd buy no-fault insurance to protect yourself — like Blue Cross on your car accident losses. If you had an accident, you'd get paid promptly by your own insurance company. And except for unusually serious cases, you wouldn't have to worry about claims by other people.

What have the actions been in other states? To date, twenty states have enacted no-fault or other types of insurance reform. Eleven states, both large and small, have enacted the threshold approach such as that in L. D. 2475. Two states have enacted insurance reform similar to that in L. D. 2504, the next item on our calendar. And seven states have enacted non-compulsory add-on type of legislation.

What is the recent trend? Of the last seven states to enact insurance reform on automobiles, six have enacted the threshold approach.

During the 106th regular session, the Business Legislation Committee was charged with the responsibility of analyzing and studying six no-fault bills. To the best of my knowledge, no state in the United States has that many to consider. This legislature did grant us \$10,000 to have an actuarial study done, and it was done. We did this to determine the effect on premiums. As a result of the study, two bills of the six showed a potential for a decrease in premiums, and our Committee chose to continue further studies on those two bills only. The legislation you have on the calendar today is a result of our studies.

What we need and hope for in no-fault insurance is:

1. To expedite claims settlement or faster payments.

2. To maintain adequate benefits.

3. Potential for a reduction in premiums.

Both bills under consideration have the potential of meeting all three of these needs.

Now, the actuarial study was done on the bills submitted in the last legislature. L. D. 2475 shows a potential 15 percent reduction in the bodily injury medical paid portion of the premium, or a 6 percent overall reduction in automobile insurance premiums. L. D. 2504, in its original form, showed a 4 percent increase in premiums, with a net decrease in premiums of 2 percent if everyone in the State of Maine who had duplicate coverage was willing to give that up. And I don't know of anyone who is willing to give it up.

I will go through the two bills, Mr. President and Members of the Senate, and try to make comparative analyses. L. D. 2475 was originally L. D. 1420, and as a result of the study there have been very few changes. Motorcycles have been excluded from coverage, and the section on limitation of tort liability, or the threshold, has been redrafted to read more clearly.

L. D. 2504 is based on the original 1882. There have been some substantive changes to this bill, primarily in the requirements as to the providers of coverage discussed in the next section of the analysis. It also reduces the benefit level, and I must in all honesty say that the reduction of benefit levels should generate a large decrease in premiums. There have been other editorial changes and motorcycles have also been excluded.

As to providers of insurance, in L. D. 2475 the no-fault benefits are required to be a part of every motor vehicle liability insurance policy, and therefore can be sold only by companies authorized to provide such coverage. L. D. 2504 had allowed only health insurance carriers or non-profit hospital and medical service organizations, or combinations thereof, to provide the no-fault benefits package. Under the new legislation, such providers have only an option to provide what are called primary health benefits, the health coverage for the named insured and his family. Section 2955 states that this coverage may be provided also by motor vehicle

insurance companies, with the provision that it may be sold in combination with the health carriers of the non-profit organizations. It further provides that the other parts of the benefit package may be provided only by motor vehicle insurance companies, a substantial change from the original L. D.

Coordination of coverage or primacy:

This issue involves which coverage is primary under the bills in payment of medical expenses and wage loss, whether the loss is paid first through the no-fault benefits, with other health and accident and wage loss coverage paying for any loss exceeding these benefits or whether the loss is paid first through the other coverage, with the no-fault benefits making up for any differences, up to the limits of coverage.

L. D. 2475 provides that social security, workmen's compensation, medicare and medicaid are primary over the no-fault benefits, on the theory that these programs are provided by law and the availability and level of benefits under these programs can easily be ascertained by the no-fault provider.

L. D. 2475 has no other provisions on primacy or required coordination of benefits or required reduction of premiums because of coordination.

L. D. 2504, the second item on our calendar, has provisions on both required and optional coordination of coverage. The bill states that the requirement of coverage for primary health benefits may be fulfilled by coverage under existing health care insurance or contracts and by coverage under various types of statutory health care programs, including Medicare, Medicaid, V.A. and armed services benefits. The Superintendent of Insurance is required to certify which such programs, policies and contracts meet the standards of coverage.

L. D. 2504 further states that providers cannot sell the primary health benefits coverage to persons who have health coverage under a certified statutory program. This is the required coordination of benefits and prohibits duplicate coverage for such persons. The coordination of benefits is optional for such persons who have certified coverage under existing health care insurance or contracts. Such persons can purchase duplicate coverage for health benefits.

It also provides an option for the disability benefits (or wage loss protection). Persons who are not employed because they are retired or disabled or are students are not required to purchase coverage for loss of the wages they do not have, although they have the choice of such coverage if they want it.

L. D. 2504 has a provision similar to L. D. 2475, in that benefits payable to an injured person shall be reduced by the amount of Social Security, Workmen's Compensation, etc., that is paid.

Limitations of Tort Liability: L.D. 2475 adopts the threshold approach to limiting tort liability. As most frequently defined, this means eliminating litigation for non-economic loss or general damages (i.e., pain and suffering, inconvenience, and mental anguish) in all cases of injury in which there is less than a stated value of medical expenses incurred or in cases of non-serious injury, as defined in the bill.

Under L.D. 2475, tort action may be brought only when medical expenses from an auto accident are \$500 or more or when total losses are more than \$2,000, the maximum benefits paid under the bill, or only when the injured party has died or suffered permanent disability, disfigurement or loss of a significant body member or function.

L.D. 2504 does not employ such a threshold, but does have provisions which are intended to result in a decrease in the number of tort actions filed.

L.D. 2504 does place a limitation on attorney's fees. This section allows attorneys a contingent fee to be paid only on that portion of the tort recovery in excess of the amount of no-fault benefits furnished and does not allow any adjustment of the fee as to the remainder of a recovery to compensate for this. For example, if an injured party received no-fault benefits of \$5,000 and then recovers \$10,000 in a tort action, his attorney could recover a fee only on the excess over the \$5,000 and not on the full recovery.

L.D. 2504 changes the present tort system by providing that evidence of no-fault benefits received must be presented to the court. This reverses the present system under which evidence

cannot be presented. It further provides that any recovery shall be reduced by the amount of no-fault benefits furnished. If these changes reduce average recoveries, this should, in theory, reduce the number of tort actions filed.

Under L.D. 2475, the insurer has a right of reimbursement out of any tort damages recovered by the injured person who is eligible to bring tort action because his damages exceed the threshold, but no right of subrogation to bring action in the name of the insured to recover the benefits paid to the insured.

In L.D. 2504, it states that subrogation and reimbursement rights are completely prohibited.

L.D. 2475, makes motor vehicle liability insurance, including the no-fault coverage, mandatory, and provides that failure to maintain this coverage is a misdemeanor, with penalties of a fine of \$500, imprisonment for not more than 6 months, or both; also a suspension to limit the right to operate the vehicle. This is far too severe and, should this bill go into a second reading, I would offer an amendment to substantially reduce that penalty.

L. D. 2504 makes only the no-fault coverage mandatory and provides that no liability policy can be issued without the no-fault coverage or without checking that the insured has such coverage. This bill provides a penalty of a fine of up to \$100 for operating without the required security, and for a suspension of the right to operate for up to 3 months or until proof of the required coverage is filed. There is no provision for imprisonment.

L. D. 2475 provides for a minimum amount of total coverage of \$2,000 to each person eligible and without limit as to the total number of recipients. It allows the coverage to be sold in multiples of \$2,000 up to a limit of \$10,000.

L. D. 2504 has a minimum amount of \$5,000 with similar provisions as to the recipients and without limit as to sale of higher coverage.

L. D. 2475 provides for reasonable hospital and medical expenses, with a limitation to semi-private accommodations unless medically indicated otherwise, and funeral expenses to a limit of \$1,000, all subject to limits of the total coverage.

L. D. 2504 has two different provisions on these expenses. On primary health benefits, for the insured and his family, they may be provided by any of the three types of providers, on "supplemental health benefits", for other eligible persons such as pedestrians, which may be provided only by motor vehicle insurance providers. The reason for the distinction is that, as previously noted, coverage for primary health benefits may be fulfilled by coverage under an existing health care contract or statutory program which would apply only to the insured and his family. Because of this limitation, coverage for other persons may be provided separately.

Loss of wages: L. D. 2475 covers 80% of lost wages, with a deduction for substitute work the injured person performs or could perform and with a provision for income tax savings. The only other limit is that on total coverage.

L. D. 2504 provides coverage for 75% of wage loss, not to exceed \$150 per week and only for 26 weeks (at which time Social Security coverage would begin in cases of total disability).

Expense for necessary services: L. D. 2475, the first item on the calendar, covers 80% of the cost of reasonable extra expenses for personal services which would have been performed by the injured person for himself or his family if the accident had not occurred. This is again subject to the limits of total coverage.

The other bill covers 75% of such cost, not to exceed \$50 per week and only for 26 weeks.

Survivor's Loss: L. D. 2475 covers loss of economic value that the next of kin would have received from the decedent, including services, subject to the limits of total coverage.

L. D. 2504 provides \$5,000 in survivor benefits, less any amount already paid to the deceased as other benefits for the same accident.

Both bills have substantially similar provisions for prompt and certain payment of benefits. These are to be paid semi-monthly as loss is incurred, and there is provision for payment of attorney's fees if action is necessary as a result of late payment. L. D. 2475 provides for 12% annual interest on late payments and L. D. 2504 for 24%.

A few comments from the Commissioner of Business Regulation as to L. D. 2504 — and I will read her remarks:

"Under Section 2956, protection against needless coverage, the Superintendent of Insurance is to certify all contracts or programs which are adequate to meet the requirements of the legislation. These programs include those offered by the Federal government over which we, as a State agency, have no control and cannot modify. There are no provisions in this legislation for supplemental programs to be offered at reduced costs to supplement these Federal programs. This suggests that consumers must purchase total health programs other than those which they may already have in effect. This would imply in many cases a substantial increase in consumer costs."

Further she states that "such benefits (the \$5,000 minimum) shall be provided in order of priority in which the need is incurred, until the total coverage is furnished. There is no explanation as to how priority is to be determined. This implies constant communication between both insurers, health and automobile, for each individual involved in an accident. a substantial increase in administrative costs in the Insurance Department from those currently incurred would appear to result from not specifying priority of payment."

She further has prepared, and we will have an amendment at some time, a \$50,000 price tag on each piece of legislation.

You have heard many comments in the last few months that the Tierney Bill was the consumer bill and that 2475, the Trask Bill, was the industry bill. We studied this thing for over a year and, as you can see in the report today, nine people supported the Trask Bill. I won't go into the comments of some of the consumers, but none of the consumers made the point that they studied the legislation, but they selected one on some sort of a basis.

I will say that one of the largest consumer organizations in the State of Maine supported the Trask Bill, and I am referring to the American Association of Retired Persons and the National Retired Teachers Association. The gentleman that spoke on that was

speaking on behalf of 70,000 State of Maine members who are active or retired, and they favored the threshold approach. He was very clear on that.

Furthermore, the Trask Bill is very similar to the federal bill, the Hart-Magneson Bill, which is now being studied in Washington. That also has the threshold approach.

Mr. President and members of the Senate, as a result of all the studies I made, I went with the Trask Bill for several reasons. No. 1, it did give a greater premium decrease and it was not hedged based on elimination of duplication of coverage. No. 2, I recognize the problems in the Insurance Department in the State of Maine that they feel they would have with the other piece of legislation in enacting it, and I went along on that basis.

I do agree that both bills give us many similar things, but we were unable to come out with one bill from that Committee. I do have concern for people that are getting their coverage from their job on the health coverage, or would be, for their automobile. If they lose their job they have no coverage. I don't know how that kind of a program would be handled. Mr. President, I believe that will be sufficient to start the debate.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I want to thank the good Senator from Penobscot, Senator Cox, for his explanation of 2475 and 2504. I rise to oppose the motion to accept the Ought to Pass Report of 2475, and hope that you would accept the Minority Report that the other body accepted. I think they accepted it, Mr. President and Members of the Senate, for very good reasons, and I think some of those reasons have already been touched upon by the good Senator, Senator Cox.

The first is that the Trask Bill mandates duplication and unnecessary insurance. In the medical coverage, whether or not a person is covered by Medicare, military insurance, or an employee medical benefit plan, he is required under the Trask Bill, he has no choice, he is required to buy the medical coverage.

In income coverage, a housewife, although she has no income, and a student, although he or she has no income, is required under the Trask Bill to buy income protection insurance as an absolute requirement. There is no chance to collect twice, but they have to pay twice, and this is supposed to be a bill to benefit the consumer.

The second area of concern is the area of the threshold, which means that a person involved in an automobile accident has to run up \$500 or more in medical bills or \$2,000 or more in economic losses before the innocent person can sue for his or her pain and suffering. Those states which have adopted a threshold, the facts will show, have been for the most part large industrialized urban states which had a real substantial problem with clogged civil courts, the courts being clogged with automobile tort cases. This certainly, I think, is not the case in the State of Maine. Our courts are not crowded and they are certainly not clogged with automobile tort cases.

An interesting statistic came to my attention showing the difference between the Maine citizen and the Massachusetts citizen, as far as being aware of bringing suit. From the studies of Massachusetts residents who were involved in an automobile accident, 10 out of 20 immediately contacted an attorney. In Maine the figure was one out of 20. So I think in the State of Maine, which is more rural and less urban, there is less tendency to immediately seek suit in the courts.

The problem which gives rise to the need for some kind of no-fault is payment of first party benefits. That is, payment of your medical losses, payment of your income losses. This is the problem, the delays in receiving these benefits which work the injustices to people. I think there is no need to completely eliminate the right to sue in order to give those first party benefits. Of course, the second bill, the bill which was accepted in the other body, does exactly that. It pays the first party benefits. As a matter of fact, it pays them to a higher figure than this bill does, but it does not eliminate the right to sue.

I also just want to correct one thing that the good Senator from Penobscot

said when he said that in Maine now, under the tort system, if a person is 1 percent at fault he cannot collect anything at all. This is not true. This used to be true under the old contributory negligence law. Now we have what they call the comparative negligence law, and a person's recovery is based on percentage of fault. So I don't think it is really necessary to institute at least in the State of Maine, to institute the threshold.

The threshold, I think, has some built-in inequities. A person cannot sue for pain and suffering unless he has \$500 worth of medical bills. And I think one of the sheets that was passed out to you shows the difference, that a person who lives in Portland and ends up in the hospital, he pays \$62.83 a day for a semi-private room; a person who lives in Eastport, in a rural area, he pays \$35 a day. So that the person who lives in Portland or Lewiston or Bangor, his medical bills are going to go up faster than the person who lives in the rural area. So the person in the urban area is going to reach \$500 and be able to sue to collect for his pain and suffering, whereas the person in the rural area who has the same injury, who has essentially the same treatment, but in a hospital with a lower per day cost, he is not going to be able to sue to recover for his pain and suffering.

Likewise, on the \$2,000 economic loss there is a discrimination against the person who earns less money. This I think is a blatant discrimination and a glaring discrimination. A person who earns \$500 per week, who misses four weeks of work, can then sue to recover for his \$500 per week, his \$2,000, and he also can sue to recover for his pain and suffering. But the millworker who is earning \$100 per week, and misses 19 weeks of work, sorry, he can't sue because he hasn't met the \$2,000 threshold. So I think there is a built-in discrimination here against the person who lives in a rural area and against the low income person from being able to sue to recover for his pain and suffering.

I also think on giving up the right to sue, which is the threshold, I also think we ought to consider whether or not this is a good bargain for us. We are giving up a valuable right for \$5 a year or \$6 a year, the cost of a night out or a dinner,

when we are giving up the right to sue. I don't think that is a very good bargain, especially when the problem is the payment of the first party benefits. And the payment of the first party benefits is accomplished in the other bill without giving up that right to sue, and still having a premium reduction for the consumer.

Lastly, I think this bill provides something which I really couldn't believe when I first read it. It provides that for someone to fail to buy insurance is guilty of a misdemeanor, for which he can be punished by up to a \$500 fine and up to 6 months imprisonment in jail.

So Mr. President and Members of the Senate: I do not think it is a misnomer for this bill to be tabbed "The Insurance Industry Bill". I think that is exactly what it is. We don't need it, it goes too far, and it discriminates. It discriminates against rural people and it discriminates against poorer people.

The other bill that is coming along takes care of the problems. The main problem is prompt payment of first party benefits up to \$5,000, as opposed to this bill which pays only up to \$2,000. The other bill pays up to \$5,000 first party benefits. There is no duplication of insurance, no unnecessary insurance mandated under the Tierney Bill. The right to sue is retained under the other bill. The other bill regulates attorneys' fees. Many of my friends at the bar, many of my lawyer friends, are against the Tierney Bill. They say we don't need anything that regulates attorneys' fees, let's kill them both. I don't agree with them. But I do think that this bill really has been adequately tabbed "The Insurance Industry Bill", and I think we would be acting against the interests of the citizens of the State of Maine in adopting this bill.

Mr. President, I would move that this bill and all accompanying papers be indefinitely postponed, and I would request a roll call.

The PRESIDENT: The Senator from Adnroscoggin, Senator Clifford, now moves that this bill and all accompanying papers be indefinitely postponed and a roll call has been requested.

The Chair recognizes the Senator from Cumberland, Senator Richardson.

Mr. RICHARDSON: Mr. President and Members of the Senate: Some of you

will perhaps recall that January 11th of last year when we first began discussing no-fault, I asked to be excused under the provisions of Senate Rule 24 on the grounds that I have what I believe in all sincerity to be a professional and legislative conflict that would dictate that I excuse myself from voting. Mr. President and Members of the Senate: You will recall that there was some discussion and debate and that I was excused from voting.

I ask again today, under the provisions of Senate Rule 24, to be excused from voting on this or any other no-fault legislation before this session of the legislature for the following reasons:

First of all, while our present ethics law would not preclude my voting on this legislation, I believe that we have got to correct that situation, and when a legislator has a close economic association with a firm or with a business which tends to either be harmed or helped financially by the enactment or defeat of legislation, I think that the legislator involved should abstain.

I have introduced legislation at this session, L. D. 2200, which is now being considered by the State Government Committee, which would provide that a conflict of interest would include several areas, including the following: "Interest in legislation relating to a trade, business or employment in which the legislator is engaged where the benefit derived by the legislator is unique and distinct from that of the general public or persons engaged in similar trades, business or employment." In short, my bill would prohibit my voting on this legislation. This is the same bill that I introduced in the last session, which was defeated by a unanimous Ought Not to Pass Report from the Committee on State Government. I have reintroduced this legislation at this session because I persist in believing that we have got to enact ethics legislation which clearly and definitely spells out what constitutes a conflict of interest.

My situation is different, Mr. President, than the other attorney members of this body. I am a member of a law firm which derives a very substantial amount of its income from the defense of insurance cases. As I indicated to you during the last session, prior to the time that I embarked on my

present mission, I received 95 per cent of my income from the trial of civil cases, the great majority of which were at the request of an insured defendant company. Now, this being true, I don't see how I can possibly vote on this and retain public confidence in the legislative process.

I want to emphasize again that I, particularly in this period of time when so many bad things are being said about lawyers, that I think the legal profession serves the people of Maine and the nation very well. And what I am saying is not to be taken by anybody here as being directed against the other members of the profession. My practice is to a unique and extraordinary degree limited to the defense in dealing with these types of cases that are under discussion today.

Finally, I would say that, having reviewed the Canons of Professional Ethics, I believe it would be unprofessional for me as a lawyer, even if I were not a legislator, it would be unprofessional of me as a lawyer, under the circumstances of this particular situation, to vote on this bill or any of the other no-fault bills.

I am going to resist the impulse, Mr. President, I know you will be delighted to hear, to make a long tiresome speech about morality in government, but I really do believe that we should adopt good strong ethics legislation and I feel obligated to play some small role in seeing that that is done by abstaining from voting on this legislation, and I request that I be excused.

The PRESIDENT: The Senator from Cumberland, Senator Richardson, asks leave to be excused from voting on this legislation under Senate Rule 24.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President, I would object to the being excused from voting of Senator Richardson. I feel that Senator Richardson has repeatedly displayed the abilities of impartiality and he is known for his ability to discuss and judge legislation on the merits of it. I think his knowledge of the subject of insurance is not confined to himself but is confined to many other attorneys in the state engaged in insurance matters. I do not subscribe to his claim that we are to be guided in this particular instance by a piece of prospective

legislation which is not yet on the books.

My personal viewpoint is that too broad of an interpretation of a conflict of interest, as suggested by the bill to which Senator Richardson refers, is going to deprive the State of Maine of the intelligent analysis and decision making of many, many legislators. If Senator Richardson has a conflict of interest in this situation, I think there are others in this chamber who have an equal if not greater conflict of interest in the matter at hand. I hope that we would ask Senator Richardson to vote by denying his request for permission not to vote.

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

Mr. RICHARDSON: Mr. President, many people in this chamber are involved either directly as candidates or as supporters of candidates for political office, and I am going to mention that because I want to ask you, as members of this Senate, to put aside any partisan political considerations and view this case on the merits.

During the last session, members of the Senate, you excused me from voting because I find being in this position uncomfortable and I think it is wrong for me to vote. It is a matter that I could not live with easily were I to be required to explain to people that I meet how it was that I voted on no-fault because, if an across the board no-fault bill goes through this session, it is going to directly adversely affect the members of my firm, with which I still retain some economic association, and I don't think it is right for me to do that.

The fact that we have pushed this problem under the rug session after session is no reason to talk about L. D. 2200, which I think is good legislation — of course I do, that is the reason my name is on it — but I think it is the direction in which we have got to go, and whether it is my bill or somebody else's bill, I think we have got to face up to the realities of the situation.

I am telling you, members of the Senate, that I do have a conflict because I, more than any other attorney in this chamber, have a direct financial interest in the outcome of this legislation, and I think it is improper for me to vote on it. I don't think the other attorneys have that problem. I again, respectfully and sincerely, ask you to

excuse me from voting, and I request a roll call.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Cumberland, Senator Morrell.

Mr. MORRELL: Mr. President and Members of the Senate: I hope that we will grant Senator Richardson's request to be excused from voting. I think there are dangers in too broad an interpretation of the matter of ethics as there are in a too narrow determination of it, but I think it is obvious from his presentation and his description of his unique problem that he definitely feels that personally he has a conflict or, at the very least, it could be construed that he has one.

Frankly, I think that is refreshing. I think he has drawn the line so as not to place other attorneys in a difficult position on this issue, and I certainly hope that we will grant him the request that he has made.

The PRESIDENT: Is the Senate ready for the question? 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 issue before the Senate is the request of the Senator from Cumberland, Senator Richardson, that under Senate Rule 24 he be granted leave of the Senate to be excused from voting on Legislative Document 2475 and other no-fault insurance bills. A "Yes" vote will be in favor of granting the Senator leave to abstain from voting; a "No" vote will be opposed.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, a point of inquiry: Was a roll call requested on the question of excusing the voting?

The PRESIDENT: The Chair understands that the Senator from Cumberland asked for a roll call on the Senate vote as to whether he may be granted leave from voting under Senate Rule 24. A "Yes" vote will be in favor of granting the Senator from Cumberland leave to abstain from voting; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Anderson, Brennan, Cianchette, Clifford, Conley, Cox, Cummings, Cyr, Danton, Fortier, Graffam, Greeley, Haskell, Henley, Joly, Kelley, Marcotte, Minkowsky, Morrell, Richardson, Sewall, Shute, Speers, Tanous, MacLeod.

NAYS: Senators Berry, Hichens, Huber, Katz, Olfene, Roberts, Wyman.

ABSENT: Senator Schulten.

A roll call was had. 25 Senators having voted in the affirmative, and seven Senators having voted in the negative, Senator Richardson of Cumberland was granted leave to abstain from voting under Senate Rule 24.

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

Mr. KATZ: Mr. President, returning to the less emotional stage of debating the legislation before us, as a member of the Business Legislation Committee, I would like to make a couple of comments about the work of the Committee, and these are unsolicited remarks.

I don't recall in my legislative experience seeing a first-term committee chairman dedicate himself so wholeheartedly and so effectively to the pursuit of the cause of accumulating knowledge in an area in which he had no expertise nor experience, but watching the Senator from Penobscot, Senator Cox, take probably the most complicated question to come before the session, start at ground zero, and with complete equal-handed fairness became the most knowledgeable man in this chamber, and perhaps indeed in the legislature, on the question of no-fault insurance was an exciting experience for me. The remarks he made this morning were his own. Very frequently when we stand up on these things that pertain to industry concerns we get a little help from outside. The remarks that you heard from Senator Cox this morning were his own.

I talked briefly with Representative Tierney in the back of the chamber, whose interests are diametrically opposed to those of Senator Cox on this particular question, and Representative Tierney echoed my feeling that this man was doing a competent and a fair job in presenting the facts to the Senate this morning. So my hat and my admiration I doff to Senator Cox.

Coming back to the legislation, the debate this morning has been, I think, directed to the issues. The only thing that disturbs me and has disturbed me about the question of no-fault insurance is the question of labeling the two bills "The Insurance Bill" and "The Consumers Bill". Senator Cox's remarks were long enough so perhaps you missed one extremely important concern that he expressed about this being a consumers bill or not being one, but those who appeared before the Committee on the question of supporting the Trask Bill included two of the largest consumer organizations in the State of Maine. So if you vote today pro or con, I ask you to forget the labels for the moment. As a matter of fact, the prime supporter of the Tierney Bill was Blue Cross-Blue Shield, an interesting part of the insurance industry, although they refer to themselves as the non-insurance company. If you are going to make up your mind, don't make up your mind based upon what is good for the insurance companies or what is good for the consumer, because the concerns cross over both bills.

You will find in reading the transcript of the hearings that a substantial amount of opposition to the whole question of no-fault came from attorneys who are deeply and personally concerned with the future of this legislation, and the only support by attorneys for either bill came on the Tierney Bill. So one could say this is a lawyers' bill, except I deny this. I suspect that the fact is, as the Senator from Androscoggin, Senator Clifford, remarked, that most attorneys would like to see both bills disappear and vanish in the dust.

I am supporting the position of Senator Cox with a clear conscience, having done about 20 percent of the homework that he did but, nevertheless, having perplexed over this problem because I feel very strongly that the interest of the Maine consumer rests with a threshold and rests with the Trask Bill. But I also want to express again my sense of pride that here was an issue that was very complex and the Committee, under his leadership, has tackled the problem and presented the matter for your consideration here this morning in a method that I think does credit to the chairman.

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

Mr. TANOUS: Mr. President and Members of the Senate: if I may be allowed a few moments to review both of these bills with you, as most of you are aware, I was the chairman of a commission to study no-fault automobile insurance or auto reparation insurance in Maine.

As Senator Katz from Kennebec, has mentioned, either misnomers or names have been applied to the Trask Bill and the Tierney Bill. The Tierney Bill has been tagged as a lawyers' bill and the Trask Bill has been tagged as the insurance companies bill.

I am sure it is difficult for members of the body who have not been involved in the concept of no-fault and the study, as Senator Cox has been and others — and I too commend Senator Cox for the wonderful job that he has done on these two bills, and he assumed it voluntarily because I recall at the last session I wanted to assume that task myself but, nevertheless, it went to the Business Legislation Committee. Now, there has been an attempted explanation of the no-fault concept, and perhaps it might be well to review the system as it presently operates.

Now, we operate under a fault system, referred to as tort, under the tort law. Back a few years ago, if two individuals were involved in an automobile accident and both parties were negligent to any degree, a tenth of one percent of negligence as far as either party was concerned, or if both parties were involved to the slightest degree in negligence, both parties were denied recovery in court under our tort law at that particular time. Approximately six or seven years ago this legislature saw the fallacy of this concept and we amended this, whereby we provided a system of the greater fault lying upon a party and the lesser negligent party being allowed to recover. This is called the comparative negligence law and this is what we are operating under presently.

To give you an example, if two individuals are involved in an automobile accident, under the present law, one of the individuals being 51 percent responsible, 51 percent negligent, and the other party being 49

percent negligent, then the individual who was 49 percent negligent could recover against the other party. Once they reached the 50-50 division, of course, neither can recover from the other. To put it in dollars and cents, an individual who might get a verdict from a jury for \$10,000 would only be able to collect \$5,100 of that verdict because of his degree. He would lose \$4,900 because of his degree of negligence in the case. This is the system that we are operating under now.

Now, what will the Trask Bill do? Basically, first of all, on every insurance policy sold in the State of Maine covering automobile liability insurance it will mandate compulsory insurance upon the people of the State of Maine. It will also mandate that you can collect only up to \$500 on medical expenses and up to \$2,000 of economic loss. This is mandated. Your own company will pay you this. If you involved in an accident with another driver or a collision on your own, you and the occupants may collect from the automobile owner's insurance company up to \$500 medical expenses and up to \$2,000 of economic loss.

Now, what does he lose as a result of this mandate? He loses his right to bring a suit in the courts unless he reaches that magic figure of \$500 in medical expenses. Once he exceeds this amount, or if he exceeds the \$2,000 economic loss, then his present rights, as I explained them to you, return to him and he is then able to bring a suit unless he reaches that figure of \$500 on medical expense and \$2,000 on economic loss. These are rights that individuals are going to be mandated to give up here in the State of Maine. You have got to remember that. You are shoving something down the throats of the people of the State of Maine. You are telling them what the only possible policy that they will be able to buy in the State of Maine will be to cover their automobiles.

Here again, the legislature collectively is going to assume, if we adopt this bill, that this is what the people of the State of Maine want and this is what the people of the State of Maine need. We are going to have to assume this if we enact this bill. That is quite an assumption, I might add, because in my 18 months of study I failed to see one single citizen come before my committee showing an interest in the

enactment of no-fault auto insurance. The lawyers were there opposed to it, and the insurance companies were there in favor of it. I am being very frank and honest with you, gentlemen and madam. Believe me, this was an 18-months study and this was the interest that was shown. And it wasn't as if these meetings were held without public notice, because we did have paid public notices very well depicted in the major papers of the State of Maine, addressing ourselves to this concept and advising them of the date of the study, the place where it was going to be, advising them of the meeting and inviting the public to attend these meetings to give us their feelings on how they felt about no-fault insurance. And I don't recall one single citizen, other than parties of interest, lawyers and insurance people, appearing before our commission to tell us how they feel about no-fault insurance.

Frankly, I can buy the concept of automobile no-fault insurance, but I don't buy the concept of shoving it down the throats of people unless they have an option. I asked the committee last year to make the bill elective, to make it optional for the person, the consumer, and let the consumer make the decision as to whether he wants to buy the standard policy as we have it now or whether to buy the policy under an option under no-fault, so that the individual wanting to buy a policy could sit down with his insurance agent, review the no-fault and review the present plan, and let the consumer make the choice.

Now, we are told that we should have no-fault auto insurance here in Maine. I haven't had anyone tell me why we need it and what it will do, economically speaking, as far as savings are concerned. I understand it has been reported that we will save 6 percent on our policies. Now, a standard policy in Maine, 20-40 coverage, as we presently have to carry, if an individual has that coverage and there are no minor individuals in the family household operating that vehicle, and in the absence of any accident during the last three years, the basic minimum amount here in Maine is \$40 for liability insurance, so if you compute 6 percent of \$40, there is a total savings of some \$2.40 on your policy. Now, is this amount sufficient to give up the present system?

This is a question you have to answer for yourselves.

There are allegations made that our courts are clogged with auto insurance cases. I, for one, deny that they are, and I have substantiated this. I will give you an example. Adjustors will tell you this, and we have several here today, that 90 percent of all of the automobile accident cases that we have in the State of Maine presently are settled directly between the claimant and the adjustor, so that 90 percent of the accident cases don't ever see a lawyer's office, if this is what is on your mind. Out of the other 10 percent of automobile accident cases that usually end up in a lawyer's office, 5 percent out of that 10 percent are settled directly between the attorney and the insurance company. So that leaves out of every 100 cases approximately five cases that are filed in court as a result of the accident.

I know a representative of one company appeared before our committee and these figures were substantiated by this particular company, and they sell 10 percent of the automobile liability insurance here in Maine. And out of the 5 percent of cases that do end up in court, only 1 percent of those cases end up actually being tried, actually having a full-scale trial. This company reported to us that in the first six months of 1972 one case had been tried, and it was settled before it had been finalized in court. So if the argument is that it is going to remove a lot of cases from the courtroom, this I can't buy. If you are buying it because you feel that you are going to save money on a policy, I rebut this presumption because you are not going to save a great deal of money.

True, in Massachusetts, there is no question about it, this was very beneficial for Massachusetts. The reason it was is because Massachusetts had absolutely the worst situation in the Country. There is no question about that. They had the highest premiums and the highest fraudulent claims filed. They just had absolutely the worst mess in existence. And they did save a substantial amount of money in Massachusetts, approximately 37 percent on their policies. I don't blame Massachusetts for adopting this concept. It was beneficial for their people, but you can't compare Maine to Massachusetts. If Massachusetts if going to be

compared to Maine using the same assumptions that Massachusetts has, then certainly I can't buy that.

Now, where do we stand in the fifty states as far as our premiums are concerned? In 1973 we ranked 38th, at the bottom of the ladder. In other words, in lowness of our premiums we are 38th out of 50. We stand 38th in everything else, so we might as well be there with the premiums.

So these are decisions that are difficult to make. There are a couple of other items that bother me about this bill, and I wish that Senator Hichens of York was here because he might agree with me. Under the Trask Bill, members of the Senate, if a drunken driver runs into you, or a speeding individual, or a drag racer on a highway driving a vehicle in a reckless manner, members of the Senate, they collect like the innocent driver, and the innocent driver can't do a darn thing about it. He can't bring a suit unless he reaches the threshold of \$500 medical. I am opposed to this. My opposition to this bill rests solely on the fact that you are going to grant benefits equally to an innocent man on the highway on Sunday with his family, his rights are going to be equal to those of the drunken driver who comes out through a stop sign and runs into your car. And believe me, this happens. You can't do anything unless you reach that magic figure of \$500. You can't bring a suit against him. This bothers me, this as well as the lack of an option in the bill which would permit the people to make their own choice. If we are going to permit the people of the State of Maine some freedom as to what is best for them, then I feel we ought to perhaps adopt the plan. If we could amend that bill to remove the two items that to me are repulsive, then I would support the Trask Bill.

I have talked with members of the insurance industry who support the Trask Bill and they would oppose these two amendments. They opposed them before the study commission and they opposed them at the public hearing before Senator Cox's committee, and they still oppose these two amendments. Frankly, I don't give a darn what the insurance industry feels or the lawyers feel; I am going to do what is best for the people of the State of Maine. I am going to reject both of these plans unless these

two items are included in the Trask Bill.

The Tierney Bill, which we are going to be taking up in a few moments, is a phony no-fault bill. I will repeat, it is a phony no-fault bill. There is nothing contained in that bill that has a true concept of no-fault auto insurance. It is an add-on, and you can buy that today if you so desire. There is no limitation, and you can walk into your insurance office today and buy the coverage provided under the Tierney Bill. The only thing that the bill does is mandate the people of the State to have to buy this coverage. That is all it does. You can buy income protection presently, you can buy medical protection presently under the law, and all the Tierney Bill does is mandate that people will have to buy it. I can't buy that concept either.

Gentlemen of the Senate, I think we would be doing the people of the State of Maine a great service if we reject both of these measures. Thank you very much.

THE PRESIDENT: The pending motion before the Senate is the motion of the Senator from Androscoggin, Senator Clifford, that Bill, "An Act Providing for No-Fault Motor Vehicle Insurance", 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 Androscoggin, Senator Clifford, that Bill, "An Act Providing for No-Fault Motor Vehicle Insurance", L. D. 2475, 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, Brennan, Clifford, Conley, Cummings, Cyr, Danton, Fortier, Graffam, Greeley, Henley, Hichens, Huber, Joly, Kelley, Marcotte, Minkowsky, Morrell, Roberts, Speers, Tanous.

NAYS: Senators Berry, Cianchette, Cox, Haskell, Katz, Olfene, Sewall, Shute, Wyman, MacLeod.

ABSENT: Senator Schulten.

A roll call was had. 21 Senators having voted in the affirmative, and 10 Senators having voted in the negative, with one Senator being absent, the Bill was Indefinitely Postponed in concurrence.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I move the Senate reconsider its action, and I hope that you vote against my motion.

The PRESIDENT: The Senator from Androscoggin, Senator Clifford, now moves that the Senate reconsider its action whereby this Bill was indefinitely postponed. As many Senators as are in favor of reconsideration will please say "Yes"; those opposed "No".

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

Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act Providing for Maine Motor Vehicle Insurance Reform." (H. P. 1963) (L. D. 2504)

Reported that the same Ought Not to Pass.

Signed:

Senators:

COX of Penobscot

KATZ of Kennebec

Representatives:

DESHAIES of Westbrook

MADDOX of Vinalhaven

TRASK of Milo

DONAGHY of Lubec

HAMBLEN of Gorham

JACKSON of Yarmouth

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-739).

Signed:

Senator:

MARCOTTE of York

Representatives:

O'BRIEN of Portland

BOUDREAU of Portland

CLARK of Freeport

TIERNEY of Durham

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

Which reports were Read.

Mr. Clifford of Androscoggin then moved that the Bill be tabled and

Tomorrow Assigned, pending Acceptance of Either Report.

On motion by Mr. Cox of Penobscot, a division was had. Seven Senators having voted in the affirmative, and 22 Senators having voted in the negative, the motion did not prevail.

Mr. Berry of Cumberland then moved that the Bill and all accompanying papers be Indefinitely Postponed.

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

Mr. CLIFFORD: Mr. President and members of the Senate: I would oppose the motion, and hope not to prolong this too long, but it seems to me that from the debate on the first bill that this bill, which is the bill which was accepted in the other body, in my opinion, is not a phony bill at all, because it gets at the problem which is the problem of the automobile tort situation.

It pays first party benefits, without waiting, up to \$5,000. And this has been the problem of people not being paid. It pays them. They also, if they desire, can sue. They retain the right to sue. But in fact, the practice will be that they will not sue in anywhere near the numbers that they sue now because they have been paid their first party benefits. The reason that people go to attorneys is because they have not been paid the first party benefit. Once they go to attorneys and the attorney explains the full rights they have, then oftentimes they sue. On this case they will be paid those first party benefits.

The bill does not have the disadvantages of the other bill. It doesn't have duplicate insurance. It doesn't have a mandating that you buy duplicate and unnecessary insurance, such as medical insurance, if you are already covered under another plan, or income insurance if you are already covered under another plan or if you don't have any income to be covered. It doesn't do that. The right to sue is retained. The attorneys fees are limited. The attorney cannot collect fees in a suit reimbursing first party benefits. So the attorney fees are cut down.

Mr. President, if it is the fact that Blue Cross and Blue Shield is allowed to get into the automobile business, it seems to me that if this bill is kept alive an amendment could be introduced to take care of that problem. I think that we

have an opportunity here, and I know this bill is opposed by many of the trial lawyers, any kind of no-fault is, but it seems to me you have an opportunity to provide a no-fault situation which is the best of both worlds. It does provide the first party benefits and it retains the right to sue, which will take care of the problems that exist without anyone giving up any right for minimal amounts of money. So I hope that you would oppose the motion of the good Senator from Cumberland, Senator Berry, and keep this bill alive so that it can be amended so perhaps we can get an acceptable bill. Remember, this is the bill that was passed by the other body, and perhaps we can come out of this session with a no-fault concept in a bill form. Thank you, Mr. President.

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

Mr. KATZ: Mr. President and Members of the Senate: I cannot recall how much money, taxpayers' dollars, and how many man hours of work have been spent on presenting to this legislature an acceptable no-fault insurance bill. We have already killed one, and we have a motion to indefinitely postpone the second.

With all my heart I believe in no-fault insurance. I believed in it from the first day an insurance man in Boston told me his company was paying out 26 percent of all claims in the form of lawyers' fees, and it occurred to me that this might not be a productive way to spend premium dollars. To me the whole crux of the no-fault insurance bill is a threshold, and I have lived and agonized over it and it occurs to me that the whole strength of the bill we just defeated was the fact that there was a threshold, that you didn't have to run into court to get an immediate settlement, that it was in truth a no-fault insurance bill. I know that there are those who will say that this Tierney Bill — and I notice the sponsor in the Chamber today, and I will apply the same remarks I made about the Senator from Penobscot, Senator Cox, to Representative Tierney, who has done an—

The PRESIDENT: The Chair would caution the Senator against referring to members of the other branch.

Mr. KATZ: That the sponsor of this piece of legislation has done an

extraordinary job in making himself knowledgeable. But in conscience, without a threshold, which I think is the crux of a true no-fault insurance bill, I cannot support the alternate bill in front of us now.

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

Mr. BERRY: Mr. President and Members of the Senate: I had, of course, intended to remain mute on this particular subject, but I think I must speak as somewhat of a member of the clergy at a burial service. I must take my hat off to Senator Cox and his committee for an outstanding, back-breaking job. I will certainly say here very loudly and plainly in words of one syllable that the legal profession once again has won. I cannot help but point out to you the objections to the bill that have been voiced by the legal profession, and it was in this spirit that I felt that Senator Richardson was in the unique position to give to us of his advice. It was of course in reference to this that I said others in this body had a much greater conflict of interest.

I would point out that at the last session we had the results of a special study committee on no-fault insurance, which was unable to come up with any recommendations to this legislature, headed by Senator Tanous. I would point out to you that the Business Legislation Committee, after well over a year of work, with no attorneys in its membership, was able to come up with a no-fault bill that certainly can stand the light of day. One of the unfortunate parts of our being around for a long time, as I have been, is that we see trends develop, and starting with the 102nd Legislature I have been a mute and ineffective witness to the gradual increase of a tendency in the state which, in my opinion, has increased insurance costs to the people of the State of Maine at the expense of benefit to other people.

So I do say that this is a burial here. Let's not pass a piece of legislation that isn't going to do the job. I hope that for the benefit of the people of the State of Maine we will not give up our efforts to get a good no-fault bill on the books.

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

Mr. CLIFFORD: Mr. President and

members of the Senate: It is true that there are no attorneys on the Business Legislation Committee, but there are plenty of insurance people on the same committee, and I think if you will look around the back of the Chamber today you will find that the insurance industry is well represented. And it seems to me that the issue is not whether or not trial lawyers or the insurance industry won or lost, because the trial lawyers, or the majority of them, are going to win if Mr. Berry's motion today prevails. They don't want any no-fault provisions, any no-fault bill. I just wanted, Mr. President, to make that point. It seems to me that the insurance industry is well represented on the Business Legislation Committee. That was what the issue was about when we debated which committee to send these bills to at the regular session. I didn't notice any members of the insurance industry who were on that committee voting in the committee report against the Trask Bill. Thank you.

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

Mr. KATZ: Mr. President and members of the Senate: Just to put things in the proper perspective, I address your attention to the committee reports in front of us. Of the three Senators on the Business Legislation Committee, none of whom are insurance men, all three voted for enactment of the previous bill.

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

Mr. TANOUS: Mr. President and Members of the Senate: I can't sit idly here and permit my good friend Senator Berry's remarks to go unchallenged. I was hoping that the chairman of the Committee on Business Legislation might have rebutted the statements that he made, but it is difficult to defend yourself as chairman of a committee. I am sorry that Senator Berry from Cumberland wasn't aware that the bill that the Business Legislation Committee came out with was word for word almost identical to the commission bill. We didn't spend our time, sir, flapping our ears. We spent a good 18 months preparing a bill, and this is the bill the Business Legislation Committee considered last session, this is the bill

here at the Special Session almost word for word as was prepared by the commission. I say this because we had some very able people serving on this particular commission.

I did not wholeheartedly agree with the bill. I wanted the option placed in there to permit the people to make their own decision, and I could not see rewarding drunken drivers or violators of the highway law. I opposed it for that reason, not because of my position as an attorney, believe me. Since I have been in the State Senate, my legal practice has suffered and my income from auto accident cases is negligible, as far as I am concerned. This is beside the point, granted, but when charges are made of that nature, I feel that they ought to be rebutted publicly. I again subscribe to the fact that the Tierney Bill is a phony no-fault bill, and I hope that we turn this bill down as well. Thank you.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Cumberland, Senator Berry, that Bill, "An Act Providing for Maine Motor Vehicle Insurance Reform", be indefinitely postponed.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

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

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

Obviously more than one-fifth having arisen, a roll call is ordered. The pending motion before the Senate is the motion of the Senator from Cumberland, Senator Berry, that Bill, "An Act Providing for Maine Motor Vehicle Insurance Reform", be indefinitely postponed, L.D. 2504. 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, Cianchette, Cyr, Graffam, Greeley, Haskell, Henley, Hichens, Huber, Joly, Katz, Morrell, Olfene, Sewall, Shute, Tanous.

NAYS: Senators Brennan, Clifford, Conley, Cox, Cummings, Danton,

Fortier, Kelley, Marcotte, Minkowsky, Roberts, Speers, Wyman, MacLeod.

ABSENT: Senator Schulten.

A roll call was had. 17 Senators having voted in the affirmative, and 14 Senator having voted in the negative, with one Senator being absent, the Bill was Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

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

Mr. BERRY: Mr. President, having voted on the prevailing side, I move reconsideration.

The PRESIDENT: The Senator from Cumberland, Senator Berry, now moves that the Senate reconsider its action whereby this bill was indefinitely postponed. As many Senators as are in favor of reconsideration will please say "Yes"; those opposed "No".

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

Divided Report

Six members of the Committee on Labor on, Bill, "An Act to Increase the Minimum Wage." (H. P. 1801) (L. D. 2321)

Reported in Report "A" that the same Ought to Pass as Amended by Committee Amendment "A" (H-744).

Signed:

Senator:

KELLEY of Aroostook

Representatives:

BINETTE of Old Town

HOBBINS of Saco

McHENRY of Madawaska

CHONKO of Topsham

FARLEY of Biddeford

Four members of the same Committee on the same subject matter reported in Report "B" that the same Ought to Pass as Amended by Committee Amendment "B" (H-745).

Signed:

Senator:

TANOUS of Penobscot

Representatives:

McNALLY of Ellsworth

FLYNN of So. Portland

ROLLINS of Dixfield

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

Signed:

Senator:

HUBER of Knox

Representatives:

GARSOE of Cumberland

BROWN of Augusta

Comes from the House, Report "A" Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-744).

Which reports were Read.

Mr. Tanous of Penobscot moved that the Senate Accept the Ought to Pass Report "B" of the Committee.

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

Mr. BRENNAN: Mr. President and Members of the Senate: I rise in opposition to the acceptance of Report "B", and after that is hopefully defeated the Senate can accept Report "A". Report "A" calls for a \$2.20 minimum wage, and really, in essence, all this represents is a catchup on inflation.

In 1967 the federal minimum wage was \$1.60. Increases in the cost of living, as reflected in the consumer price index compiled by the U.S. Department of Labor, the Bureau of Labor Statistics, indicate that \$2.21 an hour is needed today to have the same purchasing power as \$1.60 did in 1967. In other words, anything less than \$2.20 means the minimum wage worker is working for less than he did in 1967. He is a poorer man today. Even at \$2.20 an hour, I don't have to tell this Senate no one is going to get rich. \$2.20 an hour means \$88. a week, \$4,576 a year for 52 weeks. That \$4,576 is not much of an improvement over the \$4,300 currently established as the poverty line for a non-farm family of four in Maine.

The economic arguments for the increase are compelling. Not only is this amount necessary to keep Maine's working families above the poverty level, it is also necessary to improve Maine's economy. More purchasing power means more spending in Maine's economy. The lowest paid are the least likely to make purchases out of state. Instead, they pump their earnings back into the Maine economy.

Economics aside, we have a moral obligation to our poorest, least represented class of workers. I appreciate those in the building trades and many other people who work hard for a living do far better than \$2.20 an

hour. These men that this would affect, these men and women, are putting in 40 or more hours a week at some of the hardest and, frankly, the least pleasant jobs in Maine. They are trying to support their families and they make a real contribution to society and this economy. They deserve at least to maintain the standard of living that they had in 1967. It would be a cruel tragedy if these working families were driven further into poverty.

This bill is nothing more than a catch-up for inflation. Again, if it passes, the person that benefits by it is not as far ahead as he was in 1967. So I would ask for a roll call on the motion of the good Senator from Penobscot, Senator Tanous, to accept the Report "B", and after that I hope that this Senate would accept Report "A" and provide a reasonable minimum wage for the lowest earning class in this state.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President and Members of the Senate: I certainly hate to monopolize the debate here this morning, but apparently these bills do involve subject matters close to my heart as well as this being a committee bill out of the Labor Committee.

I am sure that many of you are surprised here this morning that I did not subscribe to the \$2.20 minimum wage per hour here in Maine. Frankly, the \$2.00 minimum wage was my original bill. If you will recall, I introduced the original \$2.00 minimum wage bill in this legislature a couple of years ago. My feeling relative to income certainly is similar to that of Senator Brennan of Cumberland. In fact, when you address yourself to \$2.20 an hour as being a livable wage in the State of Maine, or any state for that matter, this is sheer hypocrisy because \$2.20 would never be sufficient to support a family, believe me.

If we are truly interested in a minimum wage that is going to provide even minimum income for a family to live on, to exist really, you would have to go to at least \$3.00 an hour on a 40 hour a week, which would still only give you a gross of \$120, and you perhaps take home \$100. I can't visualize any single family with two children being able to even

exist on \$100 a week under the economy that we presently have.

So why is it that the Labor Committee didn't come out and subscribe to a \$3.00 minimum wage or make it somewhere in the vicinity where a family could live on? First of all, I would like to mention to you that at \$1.90 an hour Maine is the third highest minimum wage in the country. Out of 50 states, we are third in the country at \$1.90. At \$2.00, we will have the second highest minimum wage. At \$2.20, we will be number one in the country as far as minimum wage is concerned.

Two, the minimum wage is the starting salary in Maine. It is not the peak of a salary that an individual reaches. Granted, there are some employers that, after many years of service by their employees, they just still pay the minimum wage, and I am familiar with these cases. Certainly this is exploiting the labor industry in Maine; there is no question about that. But you see, the culprit is not the State of Maine or the various 49 other states that refuse to increase the minimum wage. The culprit here is the federal government. The federal government ought to increase the minimum wage at that level, because we are not competitive with other states when we increase our minimum wage. In effect, we are driving away much industry from Maine because of the inability to compete with other states. This is what we are doing. So if the federal government would only get off their duff and increase the minimum wage where we could be competitive with other states, I would sanction a minimum wage of up to \$3.00 an hour in the State of Maine, if only the federal government would reach that plateau.

You know, this is the philosophy I had last year and the year before that, and our minimum wage law in Maine does provide for this. If the federal government increases its minimum wage from \$1.60 up to \$3.00, we are tied in with the federal government under our minimum wage law, so whenever the federal government exceeds our minimum wage, up to \$3.00 an hour, the Maine minimum wage will increase accordingly. So we are tied in with the federal government in that respect. This is truly the item, I think, that all of Maine industry was concerned with,

both the laboring factor and industry as well. They don't deny the fact that if the federal government will be competitive by increasing the federal minimum wage for all states then we will follow suit. I think this is the only way to do it, and I hope that you would vote to accept report "B", the \$2.00 report, from the Committee. Thank you.

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

Mr. CYR: Mr. President and Members of the Senate: I am sure that my Minority Leader will be happy today to find out that I support his stand. I support his stand so that the wage earner can raise his income so that he can pay the higher milk prices. In my debate on milk I showed you, I quoted statistics, where in the 50's it took the wage earner ten minutes of his time to earn his quart of milk; in the 1960's it took seven and a half minutes; in the early 1970's it took five and a half minutes. Now, by subscribing to this increased minimum wage, I hope that we can make it an even five minutes for the wage earner to earn his quart of milk. And those that cannot earn, or cannot pay out of their wages five minutes of their time, I hope that they can draw dry milk from the surplus commodity.

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

Mr. CONLEY: Mr. President and Members of the Senate: It sort of amuses me to see the Chairman of the Labor Committee speaking for a \$2.00 an hour minimum wage. It is amusing in a sense because two years ago the very same bill that the good Senator from Penobscot has signed was what was before this Senate in the enactment stage, which was placed on the table and laid there for several days, and the Senate then reconsidered its action by putting on one of those phony amendments that we speak about that the \$2.00 minimum wage would take effect at the time the Congress passed a \$2.00 an hour minimum wage.

So two years have passed and inflation has grown, and continues to grow daily, while people who are being used by various employers throughout the state are still compelled to get by on a measly \$1.90 an hour, that apparently Senator

Tanous thinks is a very healthy payment rate. I wonder how many people picked up the paper this week and read the Gallup Poll that was taken. For those of you who haven't, I think I would like to make you aware of what it is. It was in Monday's Press Herald, released from Princeton, New Jersey. It says "Americans surveyed in the latest Gallup Poll believe a non-farm family of four needs at least \$152 a week to pay for basic necessities. Gallup interviewed 1444 persons during two periods in mid-February and asked them what is the smallest amount of money a family of four needs for each week to get along in the community. The poll found that living costs are considered lower in the south and midwest than in the east or far west. The east was considered the most expensive section in the country. A Gallup spokesman said a \$152 figure was more than five times the \$30 estimate of 1937, and 50 percent more than the \$101 average given in 1967. It represents only a \$3 increase over last year's average minimum. However, the spokesman said, a better way to view the reaction to inflation was in figures indicating an increase from 35 to 47 percent in those Americans who said more than \$150 a week was needed to purchase necessities. He said the \$3 increase did not fully reflect the recent impact on inflation because of the variables in the averaging process."

Mr. President and Members of the Senate: I support the position of the Minority Floor Leader, and can hardly see how any member in this Senate could even entertain the thought of staying at a \$2 an hour minimum wage. I wonder how many in this great chamber here could survive on a gross income of \$80 a week for 40 hours. That is gross, before taxes. It just disturbs me when it comes to the little guy on the street that we always seem to take a dim view and have to keep everything in checks and balances.

I would like you to know that over the past several weeks the Appropriations Committee has been indulging in considerable debate, and what I honestly feel was good honest debate, over the AFDC recipients of this state. And I think one of the big problems we have in this state today is that we are making it even a little bit more attractive to be on AFDC than it is to be working. And when we look at the standards of need that

were established back in 1969 under the federal formula, there is no question that people can get \$168 a month on AFDC, but when you start comparing the present \$1.90 an hour, really there isn't much incentive for anyone to get off AFDC. This troubled a lot of us. The fact of the matter is that we honestly believed that there would be many people who would be working if they felt that it was worthwhile to have a job.

We all know what is going to happen if we pass a \$2.20 an hour minimum wage. It is going to be passed on to the consumer. That doesn't disturb me one bit. This is something that I think we all equally share in, and the fact of the matter is that some child or some family is going to be better fed and perhaps better housed, even at \$2.20 an hour, which certainly doesn't correct the injustice or the problem.

With inflation just surging throughout the country, when we talk about fuel costs in our communities — and I know that my fuel cost at home has doubled this year over what it was a year ago, and I am sure it is the same with every one of you. And I am not self-employed; I live on what I consider to be fixed income every week — well, I just wonder about these other people who are down there in our great stores, who advertise weekly and don't mind running a full-page ad, again, I just think that the employees of those outfits are exploited, continue to be exploited, and yet have to somehow or other manage to get by. I think the \$2.20 an hour minimum wage is the only thing that can be acceptable to these people.

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

Mr. TANOUS: Mr. President and Members of the Senate: I would remind the Senator from Cumberland that \$2.20 is the absolute highest, that the nearest state that has anything over \$2.00 is the \$2.05 minimum wage. Certainly the other 50 states must see the wisdom also the inability of people to exist on anything less than that.

Now, it isn't Maine or the 49 other states that are the culprit, it is the federal government. I feel that the federal government ought to increase their minimum wage so that we could remain competitive with the other states. And your Governor saw the

wisdom of this, because you can see that in his call to the special session he did ask for a \$2.00 minimum wage. Thank you.

Mr. BRENNAN: Mr. President and Members of the Senate: I am really befuddled by the good Senator from Penobscot, Senator Tanous, with his terrible concern about Maine being first in something. I think it is rather a good thing if we could be first in some social legislation, and I think that is exactly what this is about. He is concerned and he says they need \$3.00 an hour, but he is only willing to give them a dime. We are only talking about an additional 30 cents, or \$12 a week, or a net of \$8 or \$9 a week, and again, I can't understand why he is concerned with Maine being first in some reasonable, humane, decent social legislation.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Penobscot, Senator Tanous, that the Senate accept Report "B", Ought to Pass as amended by Committee Amendment "B", on Bill, "An Act to Increase the Minimum Wage." A roll call has been requested. In order for the Chair to order a roll call, it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those Senator in favor of ordering a roll call please rise and remain standing until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending motion before the Senate is the motion of the Senator from Penobscot, Senator Tanous, that the Senate accept Report "B", Ought to Pass as amended by Committee Amendment "B", on Bill, "An Act to Increase the Minimum Wage", L. D. 2321. A "Yes" vote will be in favor of accepting Report "B"; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Anderson, Berry, Clifford, Cox, Cummings, Graffam, Greeley, Haskell, Henley, Hichens, Huber, Joly, Katz, Minkowsky, Morrell, Olfene, Richardson, Roberts, Sewall, Shute, Speers, Tanous, Wyman and MacLeod.

NAYS: Senators Brennan, Cianchette, Cyr, Danton, Fortier, Kelley and Marcotte.

ABSENT: Senator Schulten.

A roll call was had. 24 Senators having

voted in the affirmative, and eight Senators having voted in the negative, with one Senator absent, the Ought to Pass as Amended Report "B" of the Committee was Accepted in non-concurrence and the Bill Read Once. Committee Amendment "B" was Read and Adopted in non-concurrence and the Bill, as Amended, tomorrow Assigned for Second Reading.

Senate
Leave to Withdraw,
Covered by Other Legislation

Mr. Joly for the Committee on Election Laws on, Bill, "An Act Relating to Receipts and Expenditures for Candidates for Office of Governor. (S. P. 736) (L. D. 2148)

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

Mr. Cianchette for the Committee on Election Laws on, Bill, "An Act to Prohibit Corporate Contributions for Candidates, Political Parties and Referenda." (S. P. 785) (L. D. 2265)

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

Which reports were Read and Accepted.

Sent down for concurrence.

On motion by Mr. Sewall of Penobscot, recessed until 3:00 o'clock this afternoon.

After Recess

Called to order by the President.

Reconsidered Matter

On motion by Mr. Shute of Franklin, the Senate voted to reconsider its action of earlier in today's session whereby Bill, "An Act Providing for a Credit in Maine Income Tax Law for Investment in Pollution Control Facilities," (S. P. 737) (L. D. 2149), was Passed to be Engrossed.

On further motion by the same Senator, tabled and Tomorrow Assigned, pending passage to be Engrossed.

There being no objection under suspension of the rules, all matters previously acted upon in today's session requiring concurrence were sent down forthwith for concurrence.

Refer to 107th Legislature

Mr. Morrell for the Committee on Appropriations and Financial Affairs on, Bill, "An Act Relating to Payment of Patients at Certain State Institutions as Employees under Fair Labor Standards Act." (S. P. 774) (L. D. 2221)

Reported that the same be referred to the 107th Legislature.

Which report was Read and Accepted and the Bill referred to the 107th Legislature.

Thereupon, under suspension of the rules, sent down forthwith for concurrence.

Divided Report

The Majority of the Committee on Election Laws, Bill, "An Act Limiting the Amount of Money Spent on Promoting or Opposing Referendum Questions." (S. P. 749) (L. D. 2178)

Reported that the same Ought to Pass.

Signed:

Senators:

SHUTE of Franklin
CIANCHETTE of Somerset

Representatives:

ROSS of Bath
KELLEY of Machias
KAUFFMAN of Kittery
SNOWE of Auburn
TALBOT of Portland
HANCOCK of Casco
BOUDREAU of Portland
BINNETTE of Old Town

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

Signed:

Senator:

JOLY of Kennebec

Representatives:

WILLARD of Bethel
DUDLEY of W. Enfield

Which reports were Read.

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

Mr. SHUTE: Mr. President and Members of the Senate: The Committee on Election Laws completed its business yesterday, and in the rush of things we made an error on L.D. 2178. I have already talked with Senator Kelley, the sponsor of the original bill. This was the intent of the committee to come out with a new draft, and something happened betixt cup and lip, so we are preparing an amendment for this L.D., and I would

appreciate it if someone would table it for one day to complete preparations of this amendment.

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

Thereupon, 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

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide that Equal Protection of the Laws shall not be Denied or Abridged on Account of Sex. (H. P. 2018) (L. D. 2561)

Bill, "An Act Relating to Minimum Warranty Standard for Mobile Homes." (H. P. 2019) (L. D. 2562)

(On motion by Mr. Joly of Kennebec, tabled and specially assigned for March 15, 1974, pending Passage to be Engrossed.)

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

Enactors

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

An Act to Expand the Line Budget in the Department of Mental Health and Corrections. (S. P. 846) (L. D. 2415)

An At Relating to Delegation of Selected Services by Professional Nurses. (S. P. 922) (L. D. 2551)

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, Authorizing Robert A. Denticio to Bring Action Against the State of Maine. (H. P. 1921) (L. D. 2456)

Resolve, Providing for the Replacement of Babb's Covered Bridge in Windham and Gorham. (H. P. 2004) (L. D. 2548)

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

Emergency

An Act Relating to Foreign Trade

Zones. (H. P. 2003) (L. D. 2547)

This being an emergency measure and having received the affirmative votes of 28 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 Establish a Small Grants Program for Municipal Conservation Commissions in the Department of Conservation. (S. P. 818) (L. D. 2320)

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

Orders of the Day

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

Bill, "An Act to Clarify Certain Election Laws." (S. P. 914) (L. D. 2526).

Tabled — March 11, 1974 by Senator Shute of Franklin.

Pending — Passage to be Engrossed.

(Senate Amendment "A" (S-373) and Senate Amendment "B" (S-380).)

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

Senate Amendment "C", Filing No. S-388, was Read.

The PRESIDENT: The Senator has the floor.

Mr. SHUTE: Mr. President and Members of the Senate: It is fortunate that we have this L. D. 2526 before us in a posture to receive such an amendment.

If you take the time to look at 388, the statement of fact pretty well explains the situation that has arisen as a result of some investigation by the Chairman of the Board of Registration in Portland. One of the requirements of the board, of course, is to check on all voters to determine whether or not they are in fact still living. And one of the requirements is that they send a return receipt request via the Post Office, and this costs in the neighborhood of fifty-two cents, and it has been an expensive proposition over the years. The people in Portland discovered that the United States Postal Service offered a special service, which is available to most of the municipalities, but particularly in the larger cities, Portland, Lewiston,

Auburn, Waterville, Augusta, Bangor, I suppose all of the larger communities with larger Post Offices, whereby for a cost of five cents they can determine through their postal employees whether or not an individual resides at a specific address. So it is the purpose of this amendment to provide the opportunity for the Board of Registration to spend far less than the fifty-two cents that is now required, and determine from the postal service whether or not there is a forwarding address available for an individual. If you follow through with the present law, the Board of Registration can determine by means of this five cent per patron fee whether or not there is such an address or a person living at a specific address, and under the current law the Board of Registration is required to send a return receipt requested which would cost fifty-two cents.

It is estimated in the Portland area that there are some 10,000 voters that could be purged from the voting lists. So you can figure for the City of Portland, for example, that they could save \$5,000 in purging their lists if this amendment were passed. This suggestion came from Mr. Duffett and the Board of Registration in Portland. The election division of the Secretary of State's office believes that this is a good proposal and can save money for some of the larger communities in our state.

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

Mr. CONLEY: Mr. President and Members of the Senate: I think the amendment as offered by the good Senator from Franklin, Senator Shute, does make a great deal of sense. The only reservation that I would have is that, as the good Senator mentioned, he talked about the City of Portland, and I am well aware of the fact that there are at least 3,000 names on the voter lists in Portland that should not be there, the people have either moved out of the community or passed away, and since we did away with the poll tax last session, there really is no way for the city to keep some sort of a check on the people as to their residence. I would like to see the amendment itself go a little further, in a sense, so that would be mandatory for the Board or Registrar to do this every so often, and that each community in the state would send out

cards to determine as to whether or not people are living at the alleged residences. It seems to me that if any community wants to keep their list up to date, it is permissible, or this is enabling, but I think it should almost be mandatory, in a sense, that once every five years each community within the state would exercise this so that not only — I know how forth-right and progressive the community of Portland is and they would probably be willing to do this every two years, but I think it should be done mandatorily at least once every five years by each community within the state.

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

Mr. JOLY: Mr. President and Members of the Senate: I appreciate the concern of the good Senator from Cumberland, Senator Conley, but I might point out that some communities, and I am thinking of my own City of Waterville, have assessors go out every two years. They are supposed to go out to every single home. Admittedly, sometimes they don't do a good job, depending on the personnel, but when they do do a good job, and generally they do, we get this information because the information they pick up is passed over to the Board of Registration. So it would be unfortunate if the City of Waterville was forced to spend even the five cents per card to do something that they are already doing, and for that reason I would object to making this mandatory. I think it is a fine law as it is, and I hope that many cities and towns that don't have good registration lists would take advantage of this, but to make it mandatory I think might be in error.

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

The motion prevailed.

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

Thereupon, on motion by Mr. Shute of Franklin, tabled and tomorrow Assigned, pending Passage to be Engrossed.

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

Joint Order—Relative to Joint Rules

— addition to Joint Rule 28. (H. P. 2006)

Tabled — March 12, 1974 by Senator Berry of Cumberland.

On motion by Mr. Berry of Cumberland, retabled and Tomorrow Assigned, pending Passage.

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

House Reports — from the Committee on Liquor Control — Bill, An Act Authorizing Municipalities with Public Auditoriums to Have a Liquor License. (H. P. 1711) (L. D. 2104). Majority Report — Ought to Pass in New Draft with New Title of, Bill, "An Act Authorizing Municipal Auditoriums to Have a Liquor License." (H. P. 2013) (L. D. 2553).

Tabled — March 12, 1974 by Senator Berry of Cumberland.

Pending — Acceptance of Majority Report.

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

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President and members of the Senate: I rise in opposition to acceptance of the Majority Report. I move that this bill be indefinitely postponed.

The PRESIDENT: The Senator from York, Senator Hichens, now moves that Bill, "An Act Authorizing Municipalities with Public Auditoriums to Have Liquor License", be indefinitely postponed.

The Chair recognizes the Senator from York, Senator Marcotte.

Mr. MARCOTTE: Mr. President, I would request a division.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Oxford, Senator Fortier.

Mr. FORTIER: Mr. President and Members of the Senate: I had not thought of debating this issue, but in view of the close vote on this in this body yesterday, and due to the fact that I have signed the Ought Not to Pass Report, I felt that I should at least explain my position for signing that report.

There are three items concerning this bill which I feel very strongly about. One, is the fact that there is not another municipality in the entire country that has a liquor license. I was assured that

this noon by employees of the Liquor Commission. There is also the question in regards to school activities, and this bill reads that there shall not be any liquor in the rooms where these activities are taking place.

It was only a very few years ago that we had very strict restrictions in regard to even selling beer anywhere near a school or near a church or a parsonage. This bill would allow liquor to be sold in the adjoining room or in the room directly across the hall from these activities. But I think that possibly the chigger in the woodpile, in my estimation is the first paragraph in Section 6 on Page 2, and this reads that the licensee must notify the Bureau of Liquor Enforcement at least 24 hours in advance of such a function or event. It does not say that any liquor enforcement agent would have to approve other functions. It simply says that the licensee, or in this case it probably would be the administrator of the Civic Center, would have to notify the commission 24 hours before. Supposing the commission was not in favor and advised them that they did not favor selling liquor at this particular function, the licensee could tell the liquor bureau to go jump over the bridge, that they have absolutely no authority. In other words, you would be giving them a license that would supersede a state bureau, which I think is very, very bad. For all these reasons, I believe that this bill should be indefinitely postponed.

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

Mr. OLFENE: Mr. President and Members of the Senate: As you well know, we debated this pretty well yesterday, and I am not going to be very lengthy, just remind you of a couple of remarks that were made to you yesterday. Number one is that they can serve liquor and liquor is being used in these auditoriums at this time. This is nothing more than, as I told you yesterday, a control bill. Remember now, there is a local option in this bill. In answer perhaps to my good friend Senator Fortier, when we speak about the proximity of the school factor, remember two things: that you have given the right for the 18 year old to consume alcoholic beverages and buy beverages in this state. Furthermore, in

Section 301 of the laws relating to liquor, there is the allowance of the commission to grant licenses within this ruling at the approval of the school trustees and so forth.

I am not here to plead a case. I am only here to tell you and remind you that this, in my opinion and in the opinion of the majority of the committee, this is a rule and law that would better control the liquor situation as it pertains under this circumstance today. Therefore, I would ask you to oppose the motion and to go along with the committee.

The PRESIDENT: Is the Senate ready for the question? The pending question is the motion of the Senate from York, Senator Hichens, that Bill, "An Act Authorizing Municipal Auditoriums to Have a Liquor License", be indefinitely postponed. A division has been requested.

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. 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 Senator 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 York Senator Hichens, that Bill, "An Act Authorizing Municipal Auditoriums to Have a Liquor License", 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, Clifford, Cox, Fortier, Graffam, Greeley, Haskell, Henley, Hichens, Huber, Morrell, Tanous, Wyman, MacLeod.

NAYS: Senators Berry, Brennan, Cianchette, Conley, Cummings, Cyr, Danton, Joly, Katz, Marcotte, Olfene, Richardson, Roberts, Sewall, Shute, Speers.

ABSENT: Senators Kelley, Minkowsky, Schulten.

A roll call was had. 14 Senators having voted in the affirmative, and 16 Senators

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

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

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

Bill, "An Act to Increase the Cigarette Tax and Provide Funds for Catastrophic Medical Expenses." (H. P.1991) (L. D. 2535)

Tabled — March 12, 1974 by Senator Huber of Knox.

Pending — Adoption of Senate Amendment "A" (S-389)

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

Mr. COX: Mr. President and Members of the Senate: Since this item was tabled yesterday, I have had a chance to do some more research and study and I have received more information, so I now would like to withdraw Senate Amendment "A".

The PRESIDENT: The Senator from Penobscot, Senator Cox, withdraws Senate Amendment "A".

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

Senate Amendment "B", Filing No. S-390, was Read.

The PRESIDENT: The Senator has the floor.

Mr. COX: Mr. President and Members of the Senate: The purpose of this amendment is to provide the licensed cigarette distributor with a measure of financial relief for the time and expense involved in affixing the Maine tax stamp on cigarettes. Under our law, the state treasurer delegates this responsibility to the distributors, which results in a substantial savings to the state. In return for providing the labor and equipment, the licensed distributor receives 2¼% discount on the tax. This is an attempt to compensate the distributor for a \$6,000 machine which he must purchase or lease, the manpower required to affix the stamps, and for the ink, glue, handstamps, and other materials he must furnish to administer

the job. The discount rate was originally establish at 3%, it was reduced in 1965 to 2½%, and this amendment would restore it to a 2¾% level, which is less than the original rate, and would provide some assistance against inflation and other problems that confront the licensed distributor.

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

The motion prevailed.

The PRESIDENT: Is it now the pleasure of the Senate that this bill be passed to be engrossed in non-concurrence? As many Senators as are in favor that this Bill as Amended be passed to be engrossed in non-concurrence will please say "Yes"; those opposed, "No".

A viva voce vote being in doubt, the Chair ordered a division. 17 Senators having voted in the affirmative, and 12 Senators having voted in the negative, the Bill as Amended, was Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

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

JOINT ORDER — Relative to Legislative Council study of utilizing the Women's Correctional Center at Skowhegan for a Veterans Home. (H. P. 2025)

Tabled -- March 12, 1974 by Senator Sewall of Penobscot.

Pending — Passage.

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

Mr. SEWALL: Mr. President and Members of the Senate: In reference to this Joint Order, I am going to move the indefinite postponement of this order because, in the opinion of many, this order is a little narrower than we would like to see passed. In the supplemental journal today I will be presenting an order to replace this order which would enable the Legislative Council to look at the entire gambit of potential future operations at Skowhegan. So I urge the indefinite postponement of the order.

The PRESIDENT: The Senator from Penobscot, Senator Sewall, now moves that Joint Order, H. P. 2025, be indefinitely postponed in

non-concurrence. Is this the pleasure of the Senate?

Thereupon, the Joint Order was Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

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

HOUSE REPORTS -- from the Committee on Judiciary — Bill, "An Act Relating to Initial Changes in the Penal System of the State and the Rights and Duties of Convicted Persons." (H. P. 1816) (L. D. 2313) Majority Report — Ought to Pass in New Draft (H. P. 2015) (L. D. 2556); Minority Report — Ought Not to Pass.

Tabled — March 12, 1974 by Senator Hichens of York.

Pending — Motion of Senator Hichens of York to indefinitely postpone bill and accompanying papers.

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

Mr. TANOUS: Mr. President and Members of the Senate: This particular bill is a Task Force Study Commission bill, L. D. 2556. I am sure if you will review the bill that the provisions contained therein are not so drastic that one would want to kill the bill without some discussion or debate.

The bill was a new draft of the committee, and I assume that Senator Hichens' major opposition to the bill deals with the good time behavior by inmates. Now, presently we have a seven days a month provision for good time behavior by inmates, and the bill in the new draft calls for ten days. All this means is that the inmates would be permitted to have a parole hearing three days a month sooner than they presently would have. This doesn't mean in any sense of the word that they are going to be released from any institution any earlier. It merely permits the individual to apply for a parole sooner than he would under the present seven day good time earnings by inmates.

The remainder of the bill basically deals with an occupational license disqualification on the basis of criminal records whereby many times individuals are denied an opportunity for employment because of a criminal record. I give a case in point of a barber,

for instance, who was denied a license to do some barbering because he had been incarcerated. The remainder of the bill deals with the institutional school administrative units to be authorized under this particular bill, and I point out to you members of the Senate that there has been a lot of work involved in preparing a plan for a proposal for an education rehabilitation program for the Department of Corrections in the State of Maine. This has been prepared by the Economic and Manpower Corporation, and is a very extensive report dealing with education.

Now, yesterday there was distributed on every desk a memo relative to every section of this bill, and certainly, if you have had an opportunity to read the explanation of the bill, it would be extremely difficult to oppose the intent of the bill.

Now, we should have to keep in mind that crime should be punished, that criminals who are apprehended should be punished. We should also keep in mind that this individual who has violated the law, and who has been committed to one of our institutions some day must be released, unless he has committed such a heinous and serious crime which provides for a life penalty, but these are indeed rare in the State of Maine. And if we are only going to be concerned with the punishment aspect of our jails for those who violate our laws, then we have failed and we have failed miserably, because some day these individuals are going to have to be released under our provisions of the law. We just don't lock them up and throw the key away. Unfortunately, under the present system, when we do release these individuals and send them out into society, they are ill-prepared to face the problems of reintegrating into society.

As good God-fearing individuals, we should try at least to implement the present punitive program with some rehabilitation attached to it so that these individuals, when they do return to society, at least will have some preparation to meet the problems of society and the problem of reintegrating into the social system. In the absence of this, all you do is create a second, a third, and a fourth offender, and you never get the problem of crime solved. If we believe in the education and rehabilitation provisions of the

recommendation, then certainly we should adopt the provisions of 2556.

To go one step further, I personally feel that violators of law should be punished, and I would like the Majority Report of the Committee to be adopted as I have an amendment prepared which I am going to introduced tomorrow, if we accept the Majority Report of the Committee, which will make a provision that mandatory jail sentences will be imposed on the second offense of breaking, entering and larceny. I hope you would vote against the motion for indefinite postponement and join me in accepting the Majority Ought to Pass Report. Thank you.

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

Mr. HICHENS: Mr. President, it is with great reluctance that I rise to oppose the good Senator, but I cannot go along with this reform bill. It is like a good many bills that have been presented in the special session; it has many parts, and I believe that these parts should have been introduced separately so that we could have argued or discussed them separately. In order to keep one good part we have to keep the whole bill, and in order to kill one part we have to kill possibly a good part of it.

The amendment that the Senator has proposed I have gone over, and I probably would agree with it, but I can't see saving the whole bill just for the sake of the amendment.

We heard yesterday, those of us who attended the Governor's prayer breakfast, that we have 36 million laws on our books to implement the 10 Commandments. And among the laws on our books are those definite laws concerning those who break the laws, and I believe that we should protect the welfare of the people who are keeping the laws and trying to live a fair and decent life in our communities.

The first part of this bill states "to guarantee that offenders will not return to criminal activities". Who in the world can guarantee that a released offender is not going to return to a criminal activity. We can't read their minds or we don't know what caused them to go there in the first place, but we do know that they did break the law.

Another part of the bill mentions getting jobs for these offenders. Here we

have people who have broken the law out competing against the increasing amount of people who cannot find jobs and who have again, as I stated, abided by the laws. I had a good case as to the effect of that with a woman who called me about her son down in Portland. She was concerned because she had to get out and work for a living and she was afraid of her son, a 15-year old, wandering the streets. She tried to get him to find a job. He went to the local MacDonald's there in South Portland and asked for a job, and they told him there were no jobs available. She found out later that the reason there were no jobs available was that there were four boys from the Boys' Training Center working at MacDonald's in preparation for being released, to help them prepare to get out into the community. Here again, we are keeping a law-abiding citizen from getting a job to help these other boys out.

Again, we read in this bill that there are 10 days allotted every month for good time, so that anyone who is sentenced to a five-year term automatically knows that if he behaves himself then that term is going to be automatically suspended at the end of four years and he will be out on parole or probation. Again a case in point: I talked to the deputy warden a few years ago about a man from my own area who had been recommitted to the State Prison three times. The deputy warden said that this man conformed to the laws of the prison very effectively but once he got back into the community he couldn't cope for himself. He said I can guarantee you when this fellow gets out that within a few months he is going to be back with us again. He said "We have a great group of people in this institution who just can't conform with the laws when they are on their own." He said "Whether we can find other facilities for them, I don't know. As far as the prison rules are concerned, they abide by them, but when they get out into the community they are lost." I believe that some of these people need custody, and I do not believe that having this open reform bill is going to correct the situation for the benefit of all those concerned.

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

Mr. BERRY: Mr. President and Members of the Senate: I would support the position of Senator Tanous. I can understand, of course, the motives of Senator Hichens of York, and I am sure that everybody here is basically in sympathy with the plight of the criminal.

I think what we are also interested in is society in general, and I think that society in general is best served by a policy as set up by L. D. 2556. There is no guarantee in the bill; the word is by "emphasizing efforts" for rehabilitation. Statistics indicate that very close to 80 percent of the people sent to prison go back there after they have been turned free. I think here is the nub of the problem. Is society best served by these four young chaps working at MacDonald's, being prepared to go back into society, or is it best served by these four chaps being at the Boys' Center in South Portland where they don't have a future with society? Is it better for society in general to turn out hardened, discouraged, disgruntled, disillusioned people who feel that the future has no hope?

Certainly we have to protect society, but are we protecting it perhaps not more by attempting to rehabilitate, by attempting to have these people find their place in society? And I also honestly think we can. The legislation is not earth-shattering except in this one respect.

The other major provision of the bill is that a person with a criminal record shall not be barred from consideration for a job. It doesn't say he gets it, it doesn't say he is put up at the top of the list or at the bottom of the list, but if he has got a criminal record, that does not automatically bar him from consideration for a job. It can work against him. His prison record would be considered by his employer obviously, but at least he has the right to appear.

The tendency, of course, as we would say, for a loosening of our prison policy, without any question, has worked very extreme hardships. We know here in Augusta that there have been fatalities perhaps involved in parallel procedures at the hospital. There are prisoners who have gone home on parole who have, of course, not done what is supposed to be done. The person that suffers the most in all this procedure is the victim of the crime that was originally committed,

and this is certainly a fact that can never be straightened out. This is the price that is paid for finding a place in society for these people. So we certainly have to look at the whole picture. How is society best served?

Perhaps if this policy is as encouraged in 2556, and as explained by Senator Tanous in his very well written memorandum of yesterday, which I think we have all seen, I think this policy should be given a trial. Now, here is a bill that really is going to do society some good. We hear quite a lot of tympanic bumping around these chambers by certain people on certain bills, but this particular bill perhaps can do some good for society and I hope we would give it a try. I would assure Senator Hichens that I would be the first one with him if it doesn't work. In other parts of the country the philosophy is spreading and it is getting a good try.

The alternatives are grim. The alternatives are structuring in society an implacable group of incorrigibles who hate society and who will use every opportunity to even the score. Certainly this isn't going to make the world a better place to live in. So let's try this out and see if it won't work.

I am going to take this occasion to congratulate Senator Tanous. I never thought I would be in the legislature long enough to see him endorse the principle of a mandatory sentence. It is unbelievable.

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

Mr. HENLEY: Mr. President and Members of the Senate: I too would like to congratulate my good friend Senator Tanous on that same point. I ought to know because I have certainly had many good natured debates with the good Senator on the same subject.

I am something sort of an old hard line on criminals and the procedure of incarcerations, convictions, punishment, and perhaps rehabilitation. I said first off that I didn't feel I could buy any part of the bill. I still can't unless there would be changes made. I have seen in my brief time with Judiciary many, many attempts to change our laws relative to our inmates in our penal institutions. I have been known to ask facetiously if we were expected to set up a men's club down

there. This does not perhaps deal with anything that facetious. I would just like to call the Senate's attention to a few things here that I feel are worded, in my opinion, improperly.

On page 2, subparagraph 4, it says: "Recognize a legal right on the part of persons confined within the state correctional institutions to services designed to reintegrate such persons adequately into society, and to recognize the prohibition of involuntary participation of confined persons in such services." I would like to congratulate whoever wrote up that wording. Speak about semantics, if that isn't really an elegant way of getting at it; sure we want to rehabilitate inmates.

I still maintain that a person convicted of a crime for one to ten years, no matter how many, doesn't have very many legal rights once he is convicted. I don't think that there is any specific legal right he has as to what we should do to rehabilitate him. I think that should be worded that we should do everything that we can within reason to establish his facilities where he can be rehabilitated.

Now, I notice the next one: "Direct the Department of Mental Health and Corrections and other elements of the criminal justice system to develop to the maximum extent possible community-based programs and facilities in lieu of institutionalization, utilizing all state and federal assistance possible for this purpose." It sounds well, but does anybody take into consideration what the people of the community might think if, in lieu of institutionalizing a person, a convicted criminal, you tell him that if he is a nice boy he can go to school or he can maintain a job in the shoe shop and go home every night as long as he behaves himself? Possibly the people in the area might take issue with that. There seems to be no place here where the people involved, the possible victim or the victimized of a person who is convicted of a crime, have anything to say about it.

Now there is another one down here Chapter 347, Subsection 4701, "Eligibility", and I would take issue with this word where it says "may take into consideration convictions". Now, I feel that a state licensing bureau has quite a responsibility, and I see no reason why that word shall not be "shall". It would not say that they had to

refuse the license. I feel that if a person has been convicted, and it is a matter of record, there is no reason why that word should not say "shall consider that conviction", and in their wisdom decide whether it should say whether they should be licensed or not. I feel that the word "may" is too much leeway for a licensing agency.

Then I think I would also take issue with 4703. "The licensing agency may not take into consideration conviction of any crime", just because you are considering moral character. It seems to me that the two things are quite interrelated. Moral character might be reflected both ways: a crime might have to do with moral character, and moral character has to do with the conviction of a crime. I don't see how you can separate them. It seems to me that paragraph is a bit meaningless, and I feel that it is out of place there.

Also, I agree with the good Senator Hichens, for ten days a month good time, with the furlough time that is granted, I fail to see where there is any particular reason now where we should give an additional two days a month time, even if that time is only utilized towards commutation of sentence or parole. There is just one thing that I will admit, that we probably have got to do something about retraining of institutionalized people. We in Legal Affairs have been charged with the responsibility of setting up some hearings on rural crime throughout the state. I kind of welcome that assignment because I think there is a lot to be found out there. I think that one of the chief things we may come up with there is the fact that a lot of our convicted people come out of an institution and they are not prepared to meet the situation which they are faced with. So I would certainly go along with almost anything we can do to train a lot of our inmates of our institutions to prepare them to better their lot to compete socially and commercially when they are released.

But I don't know, I still would agree with the good Senator Hichens that this bill, I feel, with all of those problems, really doesn't accomplish much of anything, and I shall agree with Senator Hichens on indefinite postponement.

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

Mr. HICHENS: Mr. President and Members of the Senate: In answer to the arguments of the good Senator from Cumberland regarding the youngsters getting jobs while they are in the institution, if there are plenty jobs available, I am all for it, but when I explained this woman's concern for her son before a meeting of the Commissioner and the Warden at the State Prison, the Warden at the State Prison said he would rather take a chance that this young fellow who hadn't got into trouble would not get into trouble, even though he is wandering around the streets without being able to get a job, and help reform these other fellows and give them a chance. I cannot be of that opinion. I feel that a youngster on the street today is faced with a lot of problems, and especially with this law that was passed in our regular session, where they cannot be incarcerated for any crime that would not be a major crime, we are encouraging them to go on to commit a crime that would be a crime if they had reached their majority.

Then he went on to say that we have to look at other states. Well, I would like to have you look at other states. Massachusetts, Michigan, New York and California have implemented these reform measures for the last ten or twelve years and they are back-firing, as you can see in our papers, all of the time. Massachusetts has run into all kinds of problems with their prison reform. Last fall, a representative from the other house, I won't mention the name, and myself went to California and we had opportunity to visit San Quentin Prison. We talked with some of the men there and they said they had locked the place up, and the prisoners have been out on furloughs, prisoners who had been released on probation, were coming back in droves because they weren't able to conform with the laws of the State of California, that they were being released too fast. So I think that we should look at these other states and take a lesson from them before we start giving more prison reform in the State of Maine.

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

Mr. TANOUS: Mr. President and Members of the Senate: I can't buy the

equation of Senator Hichens from York with California or New York. You know, we are in Maine here and I certainly can't equate Maine State Prison with San Quentin, that's for sure.

Whatever the warden mentioned to you relative to his opinion as to who should get work or who shouldn't, certainly the bill doesn't mandate any type of philosophy of this kind. This bill merely provides that an individual who has served his time and paid his debt to society, that he gets an even chance at a job like anyone else. The problem that we do have under the present system is that they don't, because they haven't been rehabilitated and they haven't been given some education to meet these demands in modern day society. As a result, we release them into society and they are no better off than when they went in there. In fact, they are much worse off. As a result, they are coming back in. And I would much rather spend a dollar to rehabilitate an offender than spend \$10,000 keeping him in jail.

I think we are doing the right thing by trying to make a worthwhile citizen out of an individual through some rehabilitative procedure or education, and I think ultimately this is the only way that we are going to solve many of our problems that we have in the criminal field. Thank you.

The PRESIDENT: The Chair will order a division. As many Senators as are in favor of the motion of the Senator from York, Senator Hichens, that this bill be indefinitely postponed in concurrence will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

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

Thereupon, the Majority Ought to Pass in New Draft Report of the Committee was Accepted in non-concurrence, the bill in New Draft Read Once and Tomorrow Assigned for Second Reading.

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

Senate Reports — from the Committee on Veterans and Retirement — Bill, "An Act Relating to Retirement of Justices of

the Supreme Judicial and Superior Courts and Judges of the District Court." (S. P. 825) (L. D. 2352). Majority Report — Ought Not to Pass; Minority Report — Ought to Pass.

Tabled — March 12, 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, for the purpose of moving this legislation along for a possible amendment, I would move we accept the Minority Ought to Pass Report.

The PRESIDENT: The Senator from Cumberland, Senator Berry, moves that the Senate accept the Minority Ought to Pass Report of the Committee. Is this the pleasure of the Senate?

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

Reconsidered Matter

On motion by Mr. Clifford of Androscoggin, the Senate voted to Recede from its previous action whereby Bill, "An Act to Amend the Industrialized Housing Law" (S. P. 927) (L. D. 2558), was Passed to be Engrossed.

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

Senate Amendment "A", Filing No. S-393, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

Papers from the House

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

Non-concurrent Matter

Bill, "An Act Relating to Dams and Reservoirs." (S. P. 916) (L. D. 2527)

In the House March 8, 1974, Passed to be Enacted.

In the Senate March 12, 1974, Passed to be Engrossed as Amended by House Amendment "A" (H-721) and House Amendment "B" (H-725) as Amended by Senate Amendment "A" Thereto (S-387), in non-concurrence.

Comes from the House, that Body having Insisted.

On motion by Mrs. Cummings of Penobscot, 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:

CUMMINGS of Penobscot
OLFENE of Androscoggin
ROBERTS of York.

Sent down for concurrence.

Non-concurrent Matter

Bill, "An Act to Repeal Milk Control Prices at the Retail Level and Make Certain Changes in the Membership of the Maine Milk Commission and the Dairy Council Committee." (H. P. 1846) (L. D. 2339)

In the House March 8, 1974, Passed to be Engrossed.

In the Senate March 11, 1974, Indefinitely Postponed, in non-concurrence.

Comes from the House, Passed to be Engrossed as Amended by House Amendment "A" (H-752), in non-concurrence.

Mr. Hichens of York moved that the Senate Adhere.

Mr. Conley of Cumberland then moved that the Senate Recede and Concur, and Mr. Hichens of York requested a division on the motion.

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

Mr. BRENNAN: Mr. President, the amendment that we are concerned with would send the repeal of the retail price fixing of the Milk Commission to referendum. Now, I think that makes an awful lot of sense. It is something that affects every family in the state.

If we want to subsidize the dairy processors, we ought to do it by a direct appropriation. As far as I am concerned, it is a bill that has been discussed for about ten years around this state, maybe longer, and again, it is something of general interest. It is not a special interest type piece of legislation as far as going to the people. It would make a lot of sense to give them a chance to see whether or not they will vote to subsidize the dairy processors. Again, it is one of the few chances that the people of this state might have to reduce their food bill.

So I would urge this Senate, notwithstanding the fact that this bill was defeated decisively in this Senate, to give the people a chance to vote to reduce their milk bill. So I hope we would recede and concur.

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

Mr. HICHENS: Mr. President, I again rise in objection to that suggestion. This amendment reads: "Shall an act to repeal milk control prices at the retail level and make certain changes in the membership of the Maine Milk Commission and the Dairy Council Committee as enacted by the 106th Legislature be accepted?" That means that we have to enact this in order to send it out to the people, and I do not think that we are ready to enact it today or any other day.

The people of the State of Maine can be sold on the idea of repealing the milk pricing without any thought of the Commission or its functions. They do not understand it and many of them, as far as money is concerned, do not want to understand it. All they can see is the cost. And there would be a good sales promotion by the consumer protection people and all of these paid agencies to go out and sell that to the people.

We do not want to do away with the Commission. We want to protect the milk industry in the State of Maine. And I noticed the sponsor of the bill had one of these pins on today, "Make a Cow Happy — Drink Milk". I told him that if his bill was accepted that there wouldn't be any cows left in the State of Maine to be happy.

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

Mrs. CUMMINGS: Mr. President, it seems to me that if we start sending all of our problems and the bills that we fight over back to referendum that it will not only be expensive but we will be in dereliction of duty. We are sent here to make decisions, hard ones and easy ones, fun ones and nasty ones, and I think this one of the times that we should make the decision. After all, this is a complicated bill, and I can't believe that it would be possible to explain to the citizenry at large what is involved. It has taken us a long time to know what is involved, and I am not sure that all of us

completely understand the complications that are involved in retaining the Maine Milk Commission in the form that we voted it. I think it would be really not living up to the job that we are here to do if we let this go out to referendum.

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

Mr. CONLEY: Mr. President, I would inform the good Senator from York, Senator Hichens, that it is not the cows that are being milked these days; it is the general public. When the vote is taken, I would ask that it be taken by the "Yeas" and "Nays".

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Aroostook, Senator Cyr.

Mr. CYR: Mr. President and Members of the Senate: I have only got one page today so don't be alarmed. You know, some strange things have been happening at the other end of the hall in the last few days.

The PRESIDENT: The Senator will please refrain from commenting on the strange actions in the body at the other end of the hall.

Mr. CYR: Well, I think they have been working the boys too hard. They are getting foggy upstairs and their judgment has been affected. In fact, I wouldn't be surprised at all to see some members streaking out in the hall someday.

Just imagine what would happen if this was to be sent to referendum, with a biased press — all you have to do is to read the news releases of the last few days on this, in fact since last fall, and I think you will agree with me that it is a biased press — with Combat trying to make itself acceptable to the consumer so that they can have their budget restored after July 1, with agitators stirring up consumer groups, with city politicians stumping for votes on the platform that they will slay the bad dragon that caused these high milk prices. In fact, in former days we used to read about city politicians that used to buy votes with a \$2 bill. Now this is going to be replaced by a quart of milk. To accept this, Mr. President, would lead to prostitution of our democratic processes and would indicate irresponsibility on our part.

I have told you before that we should not play games with this \$50 million industry, and I still believe that. I urge you very strongly to defeat the motion that is before you and let's accept the motion to adhere and give this a good funeral. Thank you.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Cumberland, Senator Conley, that the Senate recede and concur with the House. A roll call has been requested. In order for the Chair to order a roll call, it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted.

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

The Chair recognizes the Senator from Cumberland, Senator Richardson.

Mr. RICHARDSON: Mr. President, may I speak on this matter, the roll call having been ordered?

The PRESIDENT: The Senator has the floor.

Mr. RICHARDSON: Mr. President and members of the Senate: When this bill was last before us for consideration, before the Senate for consideration, I paired with the Senator from Penobscot, Senator Cox, to vote against the indefinite postponement of this bill; I voted for the bill. Because today I am going to vote against this referendum, I would like the record to indicate my reasons for doing so.

I believe that it is our responsibility as members of this legislature to solve this problem. I think the idea of sending this out to referendum is a cop-out, and I would like to see us have the courage to take the action that ought to be taken right here. I am very concerned about sending this very complex, very technical piece of legislation out. As everyone in this chamber knows, it is a very complex complicated area that requires a lot of study and a lot of analysis. Having made that analysis, I believe that the authority of the Milk Commission to set retail prices should be abolished. I take that position only after having spent a great deal of time studying the matter, but I cannot see that we are going to do anything other than abandon our responsibilities as

legislators if we are to send this problem out to referendum.

I would remind the members of the Senate that there are other pieces of legislation dealing with the Maine Milk Commission that are still in the legislative process that will provide an opportunity for us to make the necessary adjustments in due time. Thank you.

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

Mr. BRENNAN: Mr. President and Members of the Senate: First, I would like to say that we have a law on the books that provides for sending bills out to referendum. It is there for a purpose, and again, this is a broad based measure.

My good friend, the good Senator from Cumberland, alludes to another bill that exists around here dealing with the Milk Commission. It is an absolute shell. It does nothing. It is a phony bill.

Now, this bill here is the type of bill, I think, that makes a lot of sense to go to referendum. It is being much discussed around the state. It is something that everybody understands. I don't think it is that complex, as far as repealing the right to fix retail prices, and it seems to me it would make a great deal of sense. I don't see why we should be afraid of the consumers of this state, to give them an opportunity in the next general election to vote on something like this.

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

Mr. CYR: Mr. President, I take offense to the remarks just made by the Minority Leader that the bill that is coming out in redraft from the committee does nothing. This isn't the time nor the place, I suppose, to debate that bill, but I am afraid I may have to give a very short explanation of what the other bill is going to do.

First of all, we are eliminating the bracketing system, which was the basis of all our problems. For every 15 cents that the producer got, automatically the dealer got 8¼ cents. That is where they made their mistake, and we are eliminating that.

Also, there is a clause in the law which says that the Commission may waive a public hearing if it pertains to federal marketing order prices. That is the price

that sets the price to the producer. Now, what we have done is that we have amended this to say that within a bracket of 23 cents the Commission may increase the price to the producer, but that the dealer has to absorb it up to 23 cents. If it is higher than 23 cents, then they have to have a hearing. The reason for this bracket of 23 cents is that over the year, particularly in the spring of the year when the flush of the milk comes out, when you have an increase in production, oftentimes the cost of production goes down. Now you would be permanently having hearings. So within this bracket of 23 cents, they are allowed to move either up or down. If it is an increase, the dairy has to absorb it. If it is a decrease, then the dairy benefits by it. So over the year it evens out.

Also there is a provision in that for the Commission to give special consideration for volume buying, such as buying in gallons or half gallons, whichever one will be the most economical. I say that is doing an awful lot for it.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Cumberland, Senator Conley, that the Senate recede and concur with the House. A "yes" vote will be in favor of receding and concurring; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

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

NAYS: Senators Anderson, Berry, Cianchette, Cox, Cummings, Cyr, Fortier, Graffam, Greeley, Haskell, Henley, Hichens, Huber, Joly, Katz, Minkowsky, Morrell, Olfene, Richardson, Roberts, Sewall, Shute, Speers, Tanous, MacLeod.

ABSENT: Senators Schulten and Wyman.

A roll call was had. Six Senators having voted in the affirmative, and 25 Senators having voted in the negative, with two Senators being absent, the motion did not prevail.

Threupon, a viva voce vote being taken, the Senate voted to Adhere.

Non-concurrent Matter

Bill, "An Act Relating to Pilots for the Port of Portland." (H. P. 2007) (L. D. 2550)

In the House March 11, 1974, Passed to be enacted.

In the Senate March 12, 1974, Indefinitely Postponed, in non-concurrence.

Comes from the House, that body having Insisted.

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

Mr. BERRY: Mr. President, having yesterday struck our blow for freedom and having won, and realizing that perhaps that was the peak of our effort, I now move that the Senate recede and concur.

The PRESIDENT: The Senator from Cumberland, Senator Berry, now moves that the Senate recede and concur. Is this the pleasure of the Senate?

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.

Joint Order

ORDERED, the Senate concurring, that the Joint Standing Committee on Education is directed to report out a bill allowing SAD #70 to increase its debt limit. (H. P. 2036)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

Orders

On motion by Mr. Sewall of Penobscot,

WHEREAS, the Women's Correctional Center at Skowhegan is being phased out and its present function terminated by the State; and

WHEREAS, this facility has many potential uses in the future by either private or public interests; and

WHEREAS, it is appropriate and desirable to examine such alternatives for the purpose of determining the best possible use because of this termination; now, therefore, be it

ORDERED, the House concurring, that the Legislative Council is authorized and directed to study the feasibility of utilizing the Women's Correctional Center at Skowhegan for purposes other than corrections to determine an appropriate disposition of the facility upon termination of its present use; and be it further

ORDERED, that the Council shall report the results of their findings and

recommendations, including any necessary implementing legislation, to the 107th Legislature. (S. P. 936)

Which was Read.

On motion by Mr. Berry of Cumberland, tabled pending Passage.

Committee Reports House

Refer to 107th Legislature

The Committee on Appropriations and Financial Affairs on, Bill, "An Act Transferring Idle, Dedicated Funds in the Maine School Building Authority Account to the General Fund." (H. P. 1879) (L. D. 2389)

Reported that the same be referred to the 107th Legislature.

Comes from the House, the report Read and Accepted and the Bill referred to the 107th Legislature.

Which report was Read and the Bill Referred to the 107th Legislature in concurrence.

Divided Report

The Majority of the Committee on State Government on, Resolution, Proposing an Amendment to the Constitution to Establish a Legislative Compensation Commission. (H. P. 1929) (L. D. 2464)

Reported that the same Ought to Pass in New Draft under New Title: "An Act Establishing the Legislative Compensation Commission" (H. P. 2023) (L. D. 2566)

Signed:

Sensors:

SPEERS of Kennebec

CLIFFORD of Androscoggin

Representatives:

NAJARIAN of Portland

GAHAGAN of Caribou

STILLINGS of Berwick

GOODWIN of Bath

COONEY of Sabattus

CURTIS of Orono

BUSTIN of Augusta

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

Signed:

Sensor:

WYMAN of Washington

Representatives:

FARNHAM of Hampden

SILVERMAN of Calais

CROMMETT of Millinocket

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

accompanying papers Indefinitely Postponed.

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

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

Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act to Provide a Maine Homestead Property Tax Exemption Law." (H. P. 1680) (L. D. 2073)

Reported that the same Ought Not to Pass.

Signed:

Senators:

WYMAN of Washington

FORTIER of Oxford

COX of Penobscot

Representatives:

COTTRELL of Pittsfield

IMMONEN of West Paris

MERRILL of Bowdoinham

MORTON of Farmington

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. 2027) (L. D. 2568)

Signed:

Representatives:

DRIGOTAS of Auburn

FINEMORE of Bridgewater

MAXWELL of Jay

DOW of West Gardiner

DAM of Skowhegan

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

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

Sent down for concurrence.

Divided Report

Six members of the Committee on Liquor Control on, Bill, "An Act Repealing Discount Sale Price of Liquor in One State Store." (H. P. 1673) (L. D. 2066)

Reported in Report "A" that the same Ought to Pass.

Signed:

Senator:

FORTIER of Oxford

Representatives:

KELLEHER of Bangor

RICKER of Lewiston

CHICK of Sanford

GENEST of Waterville

FARNHAM of Hampden

Six members of the same committee on the same subject matter reported in Report "B" that the same Ought Not to Pass.

Signed:

Senator:

OLFENE of Androscoggin

Representatives:

STILLINGS of Berwick

CRESSEY of North Berwick

IMMONEN of West Paris

FAUCHER of Solon

TANGUAY of Lewiston

Comes from the House, Report "A" Read and Accepted and the Bill Passed to be Engrossed as Amended by House Amendment "A" (H-757)

Which reports were Read.

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

Mr. Conley of Cumberland requested a division on the motion.

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

Mr. DANTON: Mr. President and Members of the Senate: I think something should be said about this. During the 105th when we allowed this store to open in Kittery, we passed this bill because in New Hampshire over 2 million gallons of liquor was sold, and most of it to Maine residents.

Now, this store has been operating about six months. In six months it has done a lot of business. We have all read that in the paper. And I know there are a lot of complaints about liquor licensees going to that store. If you can remember, during the regular session I had a bill that would allow the liquor licensees to buy their liquor at the local liquor stores at the same rate as the Kittery store. In that way we would have gotten a true reading of what the Kittery store can really and truly do.

Now, as to the liquor licensee that goes there and buys, there has been an awful bad picture painted about a liquor licensee. I am not one myself, but I qualified many years ago to be a liquor licensee if I so desired. What does he do? We have over 1500 of them in the state. First, it costs him almost \$800 for his

license. Then he has to fill out a questionnaire, he has to appear in front of the town or city in which he wants his license, and he needs a lawyer to do that, so it probably costs him about \$1,000. Then what does he do? He provides employment and he becomes a sales tax collector for the State of Maine. So if the liquor licensee desires to go to the Kittery store, and there is nothing that prohibits him from doing that, I don't blame him because there is a substantial saving. If he went to his local liquor store, he would only get approximately a 10 per cent saving, or I think it comes to a little less than that.

Now, the store that we have in Kittery was built in a manner so that you need about 25 employees there due to the volume of business that it does. If we take this wholesale price away from that store, we won't be able to cut too many employees down simply because of the nature in which the store was constructed, so maybe we will lay off about five employees. So I don't think we really have anything to gain by taking it away from that store. Really we have nothing to gain. We should have perhaps passed my bill during the last session to allow the liquor licensees to get their liquor at their local liquor stores, and then get a true reading on that store and come back during the 107th, if we saw that store was operating and making money for the state at those wholesale prices, and drop all the prices. This is just a case of putting the cart before the horse, and I hope you would vote to accept Report "B".

The PRESIDENT: Is it now the pleasure of the Senate to accept the Ought Not to Pass Report "B" in non-concurrence?

The Chair recognizes the Senator from Oxford, Senator Fortier.

Mr. FORTIER: Mr. President, may I ask is the motion to accept Report "A" or Report "B"?

The PRESIDENT: The motion was made by the Senator from Androscoggin, Senator Olfene, to accept Report "B", Ought Not to Pass, in non-concurrence.

The Senator has the floor.

Mr. FORTIER: Mr. President, I would simply like to set a few figures straight. We have been told about the dire condition of the licensee, of the retailer, but there is another side to this story.

I am told that the Kittery store up to a recent date has sold approximately

650,000 units or bottles. I am also told that other stores throughout the state have had a reduction in their sales of approximately 550,000 bottles. Now, the transfer from other stores to the Kittery store means that we are transferring this business at a cost of 27 percent on the 550,000 units that have gone from other stores to the Kittery store. This has meant a loss to the state of very close to three-quarters of a million dollars.

I am also advised that the Liquor Commission this year is going to show one of the smallest percentages on its sales that it has ever shown and, in all probability, for the fiscal year will show a reduction in their net profit. This is due in most part to this transfer of business that is being transferred from a 75 percent profit to a profit of 47 and a fraction percent. So before you consider throwing out this bill, keep in mind that we have lost since the first of the year approximately three-quarters of a million dollars, and for a full year it would probably be considerably more.

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

Mr. BERRY: Mr. President and Members of the Senate: This legislation has been of considerable interest to me. I tried I think in the 103rd to introduce this bill, and in the 104th a good Democrat, Jack Cottrell, beat me to the draw and got his bill in.

My interest in the bill was that if we are going to be in the liquor business and if we are going to merchandise, then let's do it. I think the major plea I would put today on this bill is let's give the thing a chance to operate. I won't say the arguments are right or wrong that we have been hearing, but certainly in this short length of time we don't have enough facts to go on.

I would point out one thing that Senator Fortier of Oxford has said that I must disagree with. That is that if anybody is going to go down to Kittery to save money on buying liquor from the State of Maine, and finds the Kittery store closed, you know just where those people are going to go, and we are not going to get their business.

Now, there are a lot of ramifications that can be used in this particular area of concern that might straighten the thing out. My original bill gave the Liquor Commission the option of three stores of their choosing to try the price policy on. I

thought maybe Fryeburg, Kittery and Calais or Houlton, something like this. I have been somewhat disappointed that under the able leadership of Senator Olfene we have not seen perhaps a little try in this direction, but maybe the atmosphere just hasn't been of that type. But I either think that we should get out of the liquor business totally or let's try a little innovation here and see if we can do it and perhaps save the people of the state a little money. There may be more business income here if we do business in a little bit different way. I think, just to put it simply, let's let this thing have a fair shake.

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

Mr. OLFENE: Mr. President and Members of the Senate: Just to reiterate a bit of what Senator Berry has mentioned to you, No. 1, the legislature gave the Commission the right to make this move and, as you know, this store is in a shopping complex in the Kittery area. Now, there is a long-term lease on this store, which is a very costly item to the state. There are numerous other stores affiliated to the complex which are very great in tax revenue to the area.

I agree wholeheartedly, and a great deal of my thinking on this bill was simply what the Senator has told you, give it a chance. As was mentioned in here two or three times this week, we have been passing bills in one session and trying to kill them in the next. So I ask you to go along with Committee Report "B" and give this store a fair whole summer season and see what kind of a job it will do.

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

Mr. CYR: Mr. President, I probably shouldn't get up on this bill here because I have never debated liquor bills before, but I would like to relate to you the experience that I have had in regard to this Kittery store.

Last fall, I think it was in November, two friends of ours and us went down to Boston. On the way back we wanted to take back our supply of liquor for Christmas. Now, on the way down there is absolutely no way whatsoever, no indication and no signs whatsoever where that Kittery store is located. On the way back there were all kinds of signs and

very convenient exits to get to it. As I say, on the way down we tried to spot the signs that would indicate the location of the Kittery store. The reason for that was that sometime in the fall I was on my way up again and I wanted to stop at that Kittery store. I finally landed at the information place, and there was no exit whatsoever or no indication where the Kittery store was. So on our way up, with all of these facilities, these indications, to get to the Portsmouth store, what we did was stop at Kittery. I bought \$42 worth of liquor and my friend bought around the same, \$42 worth of liquor. And then after we crossed the bridge, we said well now, let's try to find out if there is really some indications or we missed them before. And my Lord, there is no indication at all of where that Kittery store is. So if you are trying to run a secret place, well then you have to accept the consequences. If you want this place to live, put up some signs for God's sake.

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

Mr. CONLEY: Mr. President, I can concur with the remarks of the good Senator from York, Senator Danton. I think the bill that he did have in during the regular session made a great deal of sense. I am sure the good Senator can remember that I voted for it. But from what I hear in my area, those people who travel to Kittery to buy a bottle are so disturbed because of the fact that there is a discount store down there that they just continue right on through to Portsmouth to make their purchase there.

I think it is totally discriminatory toward every other person in the state who lives north of York and Kittery. I think it absolutely ludicrous for them to have liquor sold at such reduced prices down in Kittery and then everyone else in the state having to pay such a high tab, particularly the further north you come. Mr. President, when the vote is taken, I ask that it be taken by the "Yeas" and "Nays".

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Androscoggin, Senator Olfene.

Mr. OLFENE: Mr. President and Members of the Senate: Might I just try to help in two respects here. In Senator Cyr's case, on the signing of the store, I

think you will find that very recently, as I recall, there has been a display sign put on the premises that, hopefully, will be attractive from the turnpike. I will agree wholeheartedly with you on the signing of the store. But I go back and say it is like the fellow that opens a business and maybe in the first few months he doesn't jell everything together and put the pieces together like he would like to in the future. So I would say that everyone who is involved in this one way or the other is very aware of the signing of this place, and I am sure every effort will be made to do this and do it properly as within the law it will allow.

As far as Senator Conley and the Portland situation, it makes me often think of the hunting season and the fishing areas. I live in one area, but in order for me to go hunting a week or two early I have to go off into some distant area from me. I think what we are saying here is that the store was put there for a purpose. Now, there are some of us who may say we are discriminated against, but if we are discriminated against in this case then so are we in many other cases. The store is there for a purpose, and I just ask you to leave it alone and give it a fair, honest chance. Let it go through a full year's operation and hope for a summer season that won't be too affected by the energy crisis, and then let's see what this store is going to do for us. So I urge you again to please accept Report "B".

The PRESIDENT pro tem: The Chair would interrupt debate to ask the Sergeant-at-Arms to escort the Senator from Cumberland, Senator Berry, to the rostrum to assume the duties of President pro tem.

Thereupon, the Sergeant-at-Arms escorted Senator Berry of Cumberland to the rostrum where he assumed the duties of President pro tem, and President MacLeod retired from the Senate Chamber.

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

Mr. DANTON: Mr. President and Members of the Senate: There is just one more thing I would like to point out to those of us who may be back during the 107th. I know we are going to need some money, and there is one thing I

would like to have you know: we have a 15-year lease on that store and, about \$30,000 a year, we are talking about \$450,000. Without having the wholesale prices at that store, I doubt very much that it can meet its rent.

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

Mr. FORTIER: Mr. President, it has become quite evident from the discussion here that the only way we possibly can defend this store is by more promotion by the state, more promotion for the sale of liquor.

Now, the cost of the store, the investment that we have there, has been mentioned, but are we going to refuse to take our losses on this store when we can anticipate continual losses annually of probably in the neighborhood of a million dollars a year for the business that is being transferred from other stores to that store? The figures have been quoted of something better than a \$400,000 loss there. So what, if we have a \$400,000 loss, we are still \$600,000 ahead.

The PRESIDENT pro tem: The motion before the Senate is the motion of the Senator from Androscoggin, Senator Olfene, that the Senate accept Report "B", Ought Not to Pass. A roll call has been requested. In order for the Chair to order a roll call, it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those Senators present desiring a roll call please rise and remain standing until counted.

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

The Chair recognizes the Senator from Androscoggin, Senator Olfene.

Mr. OLFENE: Mr. President, might I ask for a recount on the roll call?

The PRESIDENT pro tem: Will all those members desirous of a roll call please rise and remain standing until counted.

Six members having arisen, and six being more than one-fifth of the members present and voting, a roll call is ordered. The question before the Senate is the motion of the Senator from Androscoggin, Senator Olfene, that the Senate accept the Ought Not to Pass Report "B" of the Committee. If you are in favor of accepting the Ought Not to Pass Report of the Committee you

will vote "Yes"; if you are opposed you will vote "No".

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Berry, Cianchette, Clifford, Cummings, Cyr, Danton, Graffam, Greeley, Haskell, Hichens, Joly, Katz, Marcotte, Minkowsky, Morrell, Olfene, Roberts, Shute, Speers.

NAYS: Senators Anderson, Brennan, Conley, Cox, Fortier, Henley, Huber, Richardson, Tanous, Wyman, MacLeod.

ABSENT: Senators Kelley, Schulten, Sewall.

A roll call was had. 19 Senators having voted in the affirmative, and 11 Senators having voted in the negative, with three Senators being absent, the Ought Not to Pass Report "B" of the Committee was Accepted in non-concurrence.

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

Mr. SHUTE: Mr. President, having voted on the prevailing side, I now move reconsideration of this bill and ask you to vote against me.

The PRESIDENT pro tem: The Senator from Franklin, Senator Shute, now moves that the Senate reconsider its action whereby it accepted the Ought Not to Pass Report of the Committee. Is this the pleasure of the Senate? Those in favor of the motion will say "Yes"; those opposed "No".

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

Sent down for concurrence.

Enactors

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

An Act to Correct Errors and Inconsistencies in the Motor Vehicle Laws. (H. P. 1788) (L. D. 2260)

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

Papers from the House

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

Joint Order

ORDERED, the Senate concurring, that the Joint Standing Committee on Education report out a bill offering alternative arrangements for funding of

students living on Federal establishments. (H. P. 2038)

Comes from the House, Read and Passed.

Which was Read.

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

Mr. TANOUS: Mr. President, I would like to inquire through the Chair to Senator Katz as to whether or not this particular order deals with the same subject matter as submitted in Senate Amendment "B" to L. D. 2488.

The PRESIDENT pro tem: The Senator from Penobscot, Senator Tanous, poses a question to the Senator from Kennebec, Senator Katz, who may answer if he wishes.

The Chair recognizes that Senator.

Mr. KATZ: Mr. President, the Senator is absolutely correct. The subject matter for this bill is in errors and inconsistencies now and, as an expression of the overwhelming sense of priorities that this legislature has also shown for the well being of people from Penobscot County, we are going to enact a separate bill very quickly instead of waiting until the end of the session with errors and inconsistencies.

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

Mr. TANOUS: Mr. President, I ask that this matter lie upon the table one legislative day.

The PRESIDENT pro tem: The Senator from Penobscot, Senator Tanous, moves that House Paper 2038, Joint Order, be placed upon the table for one legislative day, pending Passage.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I wonder if I might ask the courtesy of having the gentleman withhold his motion for just a moment so I might make a comment.

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

Mr. TANOUS: Mr. President, I will withdraw my motion.

The PRESIDENT pro tem: The Chair recognizes the Senator from Kennebec, Senator Katz, and must make the observation that he wouldn't have got away with it if the President had been in the Chair.

Mr. KATZ: That may be true, Mr. President, but we had a delightful visit today by some 150 members of the Limestone community. They met with the Governor, the Commissioner of Education and the Committee on Education, and we have come to a very shaky understanding that must be implemented by the enactment of this before the week is over. I don't know of anybody who has any disagreement with the slightly changed wording in this amendment, and I would urge the Senate to act on this order so that we can proceed as per the mutual agreement of all the shaky people involved.

The PRESIDENT pro tem: Is it now the pleasure of the Senate that this Joint Order receive passage?

Thereupon, the Joint Order received Passage in concurrence.

Enactors

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

Emergency

An Act to Clarify the Duties of the Board of School Directors during Reapportionment. (S. P. 933) (L. D. 2570)

This being an emergency measure and having received the affirmative vote 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.

On motion by Mr. Anderson of Hancock,
adjourned until 9 o'clock tomorrow morning