

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

Thursday, March 14, 1974

Called to order by the President.

Prayer by Rev. Harry L. Starbuck of Augusta:

Almighty God, in these moments as we pause here we are acknowledging that we belong to something bigger than ourselves, that in a real sense this is your world and we are stewards with responsibilities, with decisions to make. We acknowledge that we need you and we belong to you. We are thankful that this is a new day and every day is a new beginning, that in each new beginning we can move on from where we were before. May this be such a constructive day. So often we are confused by the need for all kinds of information and facts and all the pressures that come to us. Sometimes we are caught between what in our hearts we know and feel to be right and what other people want of us. And Lord, in the depths of ourselves help us to deal with that kind of conflict and help us to sort of maintain our own integrity. In all of this we pray for your guidance and your presence among us, so we commit this day to you in Jesus name. Amen.

Reading of the Journal of yesterday.

Papers from the House
Non-concurrent Matter

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

In the House March 12, 1974, Passed to be Engrossed as Amended by Committee Amendment "A" (H-739).

In the Senate March 13, 1974, Bill and accompanying papers, Indefinitely Postponed, in non-concurrence.

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

On motion by Mr. Berry of Cumberland, the Senate voted to Insist and join in a Committee of Conference.

Communications
Committee on Liquor Control

12 March 1974

Honorable Kenneth P. MacLeod
 State House
 Augusta, Maine

Dear Senator MacLeod:

The Committee on Liquor Control is pleased to report that it has completed all business placed before it by the 106th Special Session of the Maine Legislature.

Bills received in Committee	10
Ought to Pass	1
Ought Not to Pass	4
Ought to Pass in New Draft	1
Leave to Withdraw	1
Divided Reports	3
	—
	10

Sincerely,

Richard B. Olfene
 Senate Chairman

RBO/jgl

Which was Read and Ordered Placed on File.

The PRESIDENT: The Chair would ask the Sergeant-at-Arms to escort the Senator from Penobscot, Senator Sewall, to the rostrum to act as President pro tem.

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

Committee Reports
Senate
Refer to 107th Legislature

Mr. Sewall for the Committee on Appropriations and Financial Affairs on, Bill, "An Act Establishing the Maine Public Transit Fund Act." (S. P. 938) (L. D. 2576)

Reported pursuant to Joint Order (S. P. 889) that the same be referred to the 107th Legislature.

Which report was Read.

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

Mr. RICHARDSON: Mr. President and Members of the Senate: I think we are making an extraordinarily serious mistake in taking this action, not only because the Federal Congress has taken and is in the course of taking action that is going to make mass transit funds available from the federal level, but

primarily because we as a state are turning our back on a significant opportunity to do something about Maine's transportation problem.

I am not going to ask to substitute the bill for the report, but I don't want this to go by without you realizing that \$950,000 of state and local money would generate a federal fund of almost \$10 million to provide for facilities acquisition, planning, and the acquisition of new rolling stock for existing and proposed bus transit facilities in Maine. I think we are making a mistake, and I think it is incredible that we have been up here as long as we have been and, as far as the energy situation is concerned, and as far as mass transit or trying to find alternate methods of transportation, by this action we take today we will have done nothing.

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

Mr. HENLEY: Mr. President and Members of the Senate: You may be surprised to know that conservative Senator Henley completely agrees with Senator Richardson on this. I think we are making a grave mistake not to take advantage of this particular situation. Mass transportation for people in going in the State of Maine from town to town and from city to city is in a sorry state, and we are getting repercussions all over the state, especially in our more widely dispersed section of the state, and of course, that means 90 percent of it.

I have mentioned this order, this possibility, on three of my Sunday radio programs. I have asked for any comments on it, and all of the comments I have received have been favorable. I stated that this would require even a local commitment of funds to match and I explained how it could work. One of the problems that has faced us in, say bus transportation between towns and between cities, has been that in the past they were just put out of business because they were privately financed, and the trend toward everyone going somewhere in his own automobile with one person in it was increasing. Now, with the energy crisis, we are being encouraged to pool our automobiles, and we may arrive at a point where we won't get very high on the catalog of obtaining

gas unless we do agree to pool if we are going on jobs. The fuel situation, especially gaswise, doesn't seem to look as though it is going to lessen right off.

Now we have had a situation in my area, in Oxford County, where we have lost all of our bus service. There is just no public transportation for people, except the free bus for the elderly and, even though I am old enough to qualify for it, so far I haven't had to call on it. But it does seem to me as though this is the golden opportunity to start this wheel turning the other way and to get some sort of subsidy to start these bus services going again and possibly to assist to put some passenger rail cars on the few rails that we have left, and to finance this, that, and the other that will help start this trend on public transportation. Even though I may not get much support, I move we substitute the bill for the report, and I would ask for a division.

The PRESIDENT pro tem: The Senator from Oxford, Senator Henley, now moves that the Senate substitute the bill for the report. A division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: I wonder if I might direct a question to a member of the Senate who has a great deal involved here with the problems of mass transit systems, one who has been very close to this particular thing, I wonder if, by giving his views on the subject and the reason for the report, Senator Conley would help us out.

The PRESIDENT pro tem: The Senator from Cumberland, Senator Berry, has posed a question through the Chair which the Senator from Cumberland, Senator Conley, may answer if he so desires.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: I could state, Mr. President and Members of the Senate, that I think the full membership of the Appropriations Committee viewed this bill with a great deal of enthusiasm. I think, however, that the lateness of the bill coming in, the monies available for us at this special session, trying to list the needs of human services, and the

review of the two supplemental budgets that we have been working on over the past month and a half, has left us in a position of really where there is no available funds to do the type of job that I think we would like to do. The price tag on this bill was in the vicinity of \$800,000.

Now, I am sure that the good Senator from Cumberland, Senator Richardson, would probably be satisfied to knock that figure down to \$200,000, or perhaps even \$150,000 or \$100,000, to get things in motion. But again, I think primarily because the lateness of the hour, the fact that this bill was just recently entertained in this session, and because the fact that the Appropriations Committee has established its priorities in dealing with the supplemental budgets, and the amount of money available, the Appropriations Committee really had no other alternative than to refer this to the 107th, and would hope at that time we could again review the priorities and also be able to have a better look as to the cash available.

One other very disappointing factor was that the figures we received from the budget office recently that show a deficit of something like \$780,000 last month. I think that the Appropriations Committee tried to take everything into consideration before referring this bill out.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: It seems to me that one of the main purposes of this special session of the legislature was to deal with the energy crisis and its related problems. I think that certainly this relates directly to the energy crisis, it directly relates, in my opinion, to human services, it directly relates to the economy of the State of Maine, and I would hope that you would support the motion of the good Senator from Oxford, Senator Henley, so that we could move this bill along and then make a final decision later on the funding on the Appropriations Table.

Right now we are going to kill it, and if we kill it we kill it for good. It seems to me we ought to keep it alive, and if there are a substantial amount of federal

funds involved, if this directly relates to the energy crisis, to mass transit, especially for people who don't have automobiles, it seems to me that it would be well worth our while to keep this bill alive at this time. Thank you, Mr. President.

The PRESIDENT pro tem: The pending motion before the Senate is the motion of the Senator from Oxford, Senator Henley, that the Bill be substituted for the report. A division has been requested. As many Senators as are in favor of the motion by the Senator from Oxford, Senator Henley, to substitute the bill for the report will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. 17 Senators having voted in the affirmative, and seven Senators having voted in the negative, the Bill was Substituted for the Report, Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

Mr. Danton for the Committee on Marine Resources on,

Bill, "An Act Relating to Sale of Crawfish." (S. P. 845) (L. D. 2386)

Reported that the same Ought to Pass in New Draft under New Title: "An Act to Regulate Sale and Processing of Crawfish" (S. P. 937) (L. D. 2575)

Which was Read.

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

Mr. BERRY: Mr. President and Members of the Senate: This is apparently a small harmless little bill, but it is one that many, many people are interested in and I think the interest of the public is very much involved here.

I noticed in reading over the new draft, which is marked L. D. 2575 as reported out by Senator Danton of York, that the bill has quite high license fees here. It seems to me one of the things that the legislature can do to help out life in general in the state is to cut down on all these special considerations we give. If we are setting up a new type of food, and we have to have fancy licensing systems and high fees, are we doing this with the intent of killing the proposal? Are we doing it with the intent of bringing in

money? Or are we doing it because we think that it is something that has been done before in other types of food products?

Personally, I think we should either have crawfish available for the public or we shouldn't. I don't think it should be covered up with stuff like this. My questions are directed to the good Senator from York, Senator Danton.

The PRESIDENT: The Senator from Cumberland, Senator Berry, has posed a question through the Chair to the good Senator from York, Senator Danton, who may answer if he so chooses.

The Chair recognizes the Senator from York, Senator Danton.

Mr. DANTON: Mr. President and Members of the Senate: I agree wholeheartedly with the good Senator from Cumberland, Senator Berry, but the original price tag on that license fee, Senator Berry, was \$150. It was through my arguing that we brought it down to \$50. As far as I am concerned, it should be the same as all the other shellfish, only \$2. But that was the agreement of the Committee and, rather than not have crawfish allowed to be served in the State of Maine, I figured it was a compromise. But I certainly wouldn't oppose anyone trying to lower the price of the license.

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

Mr. BERRY: Mr. President, I thank the good Senator from York, Senator Danton, for his explanation. I had feared this was the result of an attempt to compromise, which means probably it is going to have to be dealt with.

On the other hand, the shellfish licenses to which Senator Danton refers are for species caught in the State of Maine, and this crawfish is not a domestic animal, or creature of the shelf, I guess it is today. I don't think we should charge anybody a \$50 or \$150 fee for handling crawfish. We don't charge a \$150 fee for handling Japanese crabmeat, and we don't charge any fee for handling beef or anything else, and I don't see why there should be any barrier made for bringing into the State of Maine a food product.

Now, we all know it has been kept out by the lobster industry in the belief that

crawfish available would lower the price of lobster. Well, I went through Boston Airport two weeks ago, and the sign on those little animals was \$5.60 a pound. \$5.60 a pound; I can hardly say it with a straight face. Now, I don't want to kill Senator Graffam's bill, because it is an awful good bill, but I really feel that logic should prevail here. I don't think there should be any fee on something like this. We have never had one before. I would hope that perhaps we could move the thing along, discuss it, and perhaps get rid of all the fees.

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

Mr. DANTON: Mr. President and Members of the Senate: I think perhaps the right move that we should take on this is to take our present shellfish license, which is \$2 — that is what it cost any restaurant or hotel in the State of Maine, \$2 for a shellfish license — and perhaps bring that up to \$10. This would give them plenty of money to take and enforce this crawfish law where they claim they are going to have to put another man or two on. \$10 isn't a lot of money, and I am quite sure that any restaurant or hotel could afford it. So maybe it should be tabled and the bill so amended.

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

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

Second Readers

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

House

Bill, "An Act Authorizing Municipal Auditoriums to Have a Liquor License." (H. P. 2013) (L. D. 2553)

Bill, "An Act Relating to Representation of School Administrative Districts." (H. P. 2020) (L. D. 2563)

Bill, "An Act Authorizing a Study of Maine's Forest Resources and of Opportunities for their Better Utilization." (H. P. 2026) (L. D. 2567)

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

Bill, "An Act Establishing the Legislative Compensation Commission." (H. P. 2023) (L. D. 2566)

Bill, "An Act Relating to Initial Changes in the Penal System of the State and the Rights and Duties of Convicted Persons." (H. P. 2015) (L. D. 2556)

(See Action later in today's session.)

Which were Read a Second Time and Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

House — As Amended

Bill, "An Act Making Additional Appropriations from the General Fund for the Current Fiscal Year Ending June 30, 1974, Allocations for the Administrative Expenses 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. 2028) (L. D. 2569)

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

Bill, "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)

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

Sent down for concurrence.

Bill, "An Act to Increase the Minimum Wage." (H. P. 1801) (L. D. 2321)

Which was Read a Second Time.

Mr. Conley of Cumberland then moved that the Senate reconsider its prior action whereby it Adopted Committee Amendment "B".

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

Mr. BERRY: Mr. President, I wonder if the Senator from Cumberland, Senator Conley, would explain the purport of his proposed amendment before we get involved in a lot of parliamentary changes here.

The PRESIDENT pro tem: The Senator from Cumberland, Senator Berry, poses a question through the Chair to the Senator from Cumberland, Senator Conley, who may answer if he so wishes.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I think Report "B" was the report with a \$2 minimum wage, and the proposed amendment I am submitting changes that to \$2.10 an hour.

Now I would like to speak to the motion to reconsider our action whereby Committee Amendment "B" was adopted. The proposed amendment that I would like to offer sometime this morning is what I believe to be a fair compromise between Committee Amendment "A", which was on our calendar yesterday and which was the \$2.20 an hour minimum wage, and Report "B", which was the report accepted by the Senate yesterday with the \$2 an hour minimum wage. The amendment which I would like to offer calls for a \$2.10 an hour minimum wage.

Mr. President, I have very strong feelings on this. I particularly feel that with the inflationary costs today, for people trying to exist, that it is extremely difficult under the current circumstances. And I think the irony of the entire bill that is before the Senate is that, if you read the small print in the L.D., it states quite clearly that when the Congress takes an affirmative action on the minimum wage, whether it is \$2.20 or up to a \$3 an hour minimum wage, that once Congress passes that and it is signed into law, the State of Maine is going to go along with whatever minimum wage Congress decides upon.

The amendment that I have, as I say, is what I consider to be a compromise between the \$2.20 and \$2 an hour minimum wage, and I hope the Senate would reconsider its action whereby Committee Amendment "B" was adopted yesterday and then would entertain the proposed amendment to \$2.10 an hour. When the vote is taken, Mr. President, I would ask that it be taken by the "Yeas" and the "Nays".

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

Mr. RICHARDSON: Mr. President, I am opposed to the reconsideration motion. I think yesterday the Senate took correct action when it voted to increase the minimum wage to \$2 an hour.

I did not speak on this matter yesterday because it was very carefully covered by those who were supporting increasing the minimum wage. I am opposed to reconsideration of that action now because I think we are going to open up the whole problem again and go around and round and risk losing the progress that was made.

The minimum wage as a concept is really just that, a minimum wage. It doesn't provide a living wage, it doesn't provide the necessary income to permit people to live by standards which we would like to see all of them achieve. The reason for the minimum wage is to protect those people who are most in need of protection. It provides a minimal wage level. In doing that, we have to recognize the realities of the economic system in which we live. If we in Maine take a position that puts us away in advance of other states, particularly contiguous states, we are damaging our chances to provide the kind of business and labor climate in Maine that will produce a living wage as opposed to what I call a minimal legal wage.

Now, I think we ought to stay with \$2. I think it makes sense, and I don't think we ought to get back into reconsideration of this and risk losing the progress we have already made. And I support the request for a roll call.

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

Mr. BRENNAN: Mr. President and Members of the Senate: Again I am baffled by the remarks of the good Senator from Cumberland, Senator Richardson, in regard to progress.

As I understand it, the minimum wage in 1967 was \$1.60. Just to keep those people at the same level, we would have to pass one at \$2.21. And I think the attempt of the good Senator from Cumberland, Senator Conley, is to try to compromise it and do it at \$2.10, which would still leave the lowest rung wage earner 10 or 11 cents behind where he

was in 1967. I don't call that progress, but if we could do this much we would at least accomplish something for those on the lowest rung of the scale.

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

Mr. CONLEY: Mr. President, I would say I agree with some of the remarks made by the good Senator from Cumberland, Senator Richardson, that actually the minimum wage is to protect those who mostly need it. Perhaps his legal secretary is one of those people who need it, I don't know, but they tell me that legal secretaries aren't paid too much these days. I don't know, maybe the Senator from Cumberland, Senator Richardson, is a liberal payer. I haven't checked his books recently. But there are certainly a number of people in this state who don't make \$2 an hour. While they are making \$1.90, when you are paying \$1.64 a gallon for that cow's milk that Senator Cyr likes to speak about, I think it is impossible for these people to try to get by. I think that \$2.10 an hour is a fair compromise, and I hope that the Senate would reconsider its action of yesterday.

The PRESIDENT pro tem: The Chair recognizes the Senator from Cumberland, Senator Morrell.

Mr. MORRELL: Mr. President and Members of the Senate: You might as well hear from another Senator from Cumberland. I think that the move from \$1.90 to \$2 was reasonable. My understanding is that we move up as the federal government goes beyond that limit, and the federal government is contemplating at the present time a substantial increase in the federal minimum. It seems to me that in this special session the responsible action that was taken the other day to go to the \$2 is something we ought to stick with.

As the Senator from Cumberland, Senator Richardson, said, the minimum wage is a concept. God help us if many people are at that minimum. I hope as few as possible are. But why don't we stick with what we did and go on to other things.

The PRESIDENT pro tem: The pending motion before the Senate is reconsideration of the adoption of

Committee Amendment "B". A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of at least one-fifth of the members present and voting. Will 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 Conley, that the Senate reconsider its action whereby Committee Amendment "B" was adopted.

The Chair recognizes the Senator from Penobscot, Senator MacLeod.

Mr. MacLEOD: Mr. President, I have been listening to part of the debate in my office and I just think before we vote on this reconsideration motion, where we are discussing minimum wages, I think we should discuss just for a moment the highest minimum wage in the State of Maine today, which is enjoyed by the attorneys of this state with their 35, 40, or 45 dollars per hour. So I was really pleased to see that the Senator from Cumberland, Senator Brennan, and others who happen to be in that category, are so worried about these people who are now making \$1.90.

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

Mr. BRENNAN: Mr. President and Members of the Senate: I am glad to see my very good friend, the distinguished Senator from Penobscot, Senator MacLeod, down on the floor talking again. But what we are concerned with here again are the people at the lowest rung in the scale. We are just trying to get them up 10 cents or 20 cents, not a great deal, just to try to help them defray some of the expenses that all of us have, trying to work them toward a minimum standard of living. They are not getting that now.

I am not saying that this is a complete answer. It is not. But it is a step in that direction to help those who need the most help. In fact, I sort of think that is what government is about, to help those who can't help themselves. So we have a chance now, if we vote for that

reconsideration motion, to do something about that.

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

Mr. CONLEY: Mr. President, the thought just occurred to me that I haven't seen any insurance salesmen going through bankruptcy lately, and I think they are making a pretty good living themselves. As I look around the Senate, it seems to me that you are all doing pretty good for yourselves. You too, Mr. President, and I hope you would also vote for reconsideration.

The PRESIDENT pro tem: The Chair recognizes the Senator for Cumberland, Senator Berry.

Mr. BERRY: Mr. President, may I suggest the return to a little decorum in the Senate.

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

Mr. TANOUS: Mr. President and Members of the Senate: I just want to remind the members of this body that yesterday we debated many issues and we also debated the minimum wage, and I don't know if you people at that point were turned off when we debated the minimum wage, but I do want to remind the members of the minority party that the \$2 minimum wage was requested by the Governor of the State of Maine, who just happens to be a member of the minority party. Certainly I would assume that the Governor knew what he was doing when he made this request, understood the problems of the small businessman in Maine, and what adverse effect it would have if he asked for more than this.

In fact, yesterday after we voted on the minimum wage, Senator Brennan, Senator Danton and myself spoke with a businessman who told me that this literally, if it went up to \$2.20, would cause him to relieve two of his employees from their work. I hope you don't mind, Senator Danton, my mentioning this, but Senator Danton said that he had nine employees and, if the \$2.20 went through, he would relieve two of his employees as well. So gentlemen, let's not fool ourselves. I mean, we know that an increase in the minimum wage is

not wanted by many of you who are supporting this measure, you know it isn't going through, and it is sort of a political move on the part of the minority party — and I suppose it is sort of a political move on the part of the minority party — and I suppose that this is part of the game — but we have to be responsible in legislation, your Governor is a responsible man in this particular request, so let's support his request. Thank you.

The PRESIDENT pro tem: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Conley, that the Senate reconsider its action whereby Committee Amendment "B" was adopted to L. D. 2321. A roll call has been ordered.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Brennan, Cianchette, Clifford, Conley, Cyr, Danton, Fortier, Kelley, Marcotte.

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

ABSENT: Senators Huber, Schulten.

A roll call was had. Nine Senators having voted in the affirmative, and 22 Senators having voted in the negative, the motion to reconsider did not prevail.

Thereupon, the Bill was Passed to be Engrossed, as Amended, in non-concurrence.

Sent down for concurrence.

Senate

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)

Which was Read a Second Time.

On motion by Mr. Berry of Cumberland, tabled until later in today's session, pending Passage to be Engrossed.

Enactors

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

An Act to Correct Errors and

Inconsistencies in the Fish and Game Laws. (S. P. 765) (L. D. 2196)

An Act to Provide for the Use of Building Code Standards in the Design of State Buildings. (H. P. 2016) (L. D. 2557)

An Act Revising Certain Laws Relating to Passamaquoddy Indians. (H. P. 2017) (L. D. 2559)

An Act Relating to Certain Dedicated Funds. (H. P. 1895) (L. D. 2406)

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

Emergency

An Act Providing Minimum Retirement Benefits for Certain Teachers. (S. P. 787) (L. D. 2267)

(On motion by Mr. Morrell of Cumberland, placed on the Special Appropriations Table.)

Emergency

An Act Relating to Reimbursement of Providers of Care and Treatment other than the State. (H. P. 1962) (L. D. 2502)

This being an emergency measure and having received the affirmative votes of 23 members of the Senate, was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

Orders of the Day

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

Bill, "An Act Relating to School Buses." (S. P. 722) (L. D. 2134).

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

Pending—Consideration.

(In Senate—Passed to be Engrossed as amended by Committee Amendment "A" (S-349) and Senate Amendment "B" (S-366)

(In House—Passed to be Engrossed as amended by Committee Amendment "A" (S-349) and House Amendment "A" (H-741) in non-concurrence.)

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

The President pro tem laid before the

Senate the second tabled and specially assigned matter:

Bill, "An Act to Correct Errors and Inconsistencies in the Education Laws." (S. P. 895) (L. D. 2488)

Tabled—March 12, 1974 by Senator Katz of Kennebec.

Pending—Passage to be Engrossed.

(Senate Amendment "A" (S-371).)

(Senate Amendment "B" (S-379).)

(Senate Amendment "C" (S-386).)

(Senate Amendment "D" (S-391).)

(House Amendment "A" (H-682).)

On motion by Mr. Katz of Kennebec, and under suspension of the rules, the Senate voted to reconsider its action whereby it adopted Senate Amendment "B" and, on subsequent motion by the same Senator, Senate Amendment "B" was Indefinitely Postponed.

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

Senate Amendment "E", Filing No. S-398, was Read and Adopted.

Thereupon, on further motion by Mr. Katz of Kennebec, tabled and Specially Assigned for March 18, 1974, pending Passage to be Engrossed.

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

Bill, "An Act Relating to Price Information on Prescription Drugs and Permitting Advertising of Prescription Drug Prices." (H. P. 1793) (L. D. 2271)

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

Pending — Consideration.

(In the Senate — The Majority Ought Not to Pass report Read and Accepted.)

(In the House — the Bill, in New Draft (H. P. 1964) (L. D. 2503) Passed to be Engrossed as amended by House Amendment "D" (H-723)

Mr. Hichens of York then moved that the Bill and all accompanying papers be Indefinitely Postponed.

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

Mr. BRENNAN: Mr. President, a parliamentary inquiry: is this a non-concurrent matter at this time?

The PRESIDENT pro tem: The Chair would answer in the affirmative.

Mr. BRENNAN: Is a motion to

indefinitely postpone properly before the body?

The PRESIDENT pro tem: The Chair would advise the Senator from Cumberland, Senator Brennan, that a motion to indefinitely postpone is not in order at this time.

Mr. BRENNAN: I would make a motion to recede and concur and speak briefly on it.

The PRESIDENT pro tem: The Senator from Cumberland, Senator Brennan, now moves that the Senate recede and concur.

The Senator has the floor.

Mr. BRENNAN: Mr. President and Members of the Senate: The amendment that is now on the bill, that was adopted in the other branch, calls for posting. It would require pharmacies to post the 80 most commonly sold drugs.

First, I should say I am getting as tired of talking about consumer interests as you are probably listening. So I am getting some messages, and I appreciate that we are not being terribly successful, but this may be one of the last chances for the Maine Senate to vote in the interest of the consumer. So what it would do, it would mandate that pharmacies post the prices of the 80 most commonly sold prescription drugs. The Board of Pharmacy would set up the regulations, and that just consists of druggists so you can be assured that they are not going to get hurt. It would not permit advertising on the radio, television, or in the newspaper of the price of prescription drugs. It is not an overwhelming help to the consumer, but at least it is a foot in the door so that when they go into a drug store they don't have to make the inquiries; they can look at the prices as listed and then make a judgment.

Hospitals are exempt. I see where it doesn't put any great burden on the druggists. I don't think it will cost them anything. There was talk at the committee hearing where it would cost them several hundred dollars to post things. As I read the bill, the Board of Pharmacy would send out a poster listing the 80 most commonly sold drugs, and all the pharmacist would really have to do is write on the price. So it really isn't much. It would be a little assistance

to the consumer, and I would hope that we could go at least this far to help the consumers of this state. I would urge you to vote for the motion to recede and concur, and I would ask for a roll call.

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

Mr. HICHENS: Mr. President and Members of the Senate: I rise in opposition to this motion. It surprises me that the good Senator from Cumberland would be in favor of anything that is mandatory. As I recall, during my first session as a legislator he came to me on a bill and said that he would never vote for anything that made a thing mandatory, and here he is supporting a motion today to make mandatory posting of drug prices in our stores. One thing that I have always stood for is consistency, and I think that we should stand for that this morning.

This bill says that the druggists have to post the 50 drugs which they most commonly sell, or which are prescribed to this organization, whether they can afford it or not. We have many drug stores in our state who do post them. It is a voluntary thing at the present time, and I do not feel that it should be a mandatory regulation on our druggists. So I would oppose his motion at this time.

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

Mr. FORTIER: Mr. President and Members of the Senate: In answer to the good Senator from Cumberland, I would like to say that I too am rising in defense of the consumer. Last year I paid over \$400 for prescription drugs for my family, and I think that this entitles me at least to express my opinion.

I think it becomes very evident when we look into this bill that it is the same old wolf that is presented to us in new sheep's clothing, and I am referring to a bill which was previously defeated here concerning generic drugs. The bill that we previously defeated gave options to the pharmacist of substituting generic drugs, at his wish. It was probably defeated in this house. This bill here goes further than that. It does not simply tell the pharmacist that he may substitute generic drugs; it forces him financially,

for business reasons, to substitute, in spite of his better judgment.

Now, referring to the amendment, what the amendment does is reduce the number of drugs so listed from 150 to 80 and eliminates the advertising feature. In other words, it simply tells you that if a thing is deadly poison just take a little of it at a time and prolong the agony over a longer period of time.

On this question of practically forcing the pharmacist to advertise generic drugs because, after all, generic drugs are recognized as the cheaper, and that is the reason for this bill, to provide cheaper drugs, cheaper prescriptions, we are going back to the manufacture in a garage or in a cellar, or having these pharmaceutical products developed and produced in kitchens with practically no control. I was reading an article last week from an officer of the Federal Food and Drug Act, who said that in this country there was a great deal more control over dog food by his department than there is over pharmaceuticals. It is well recognized that practically all the efforts and the money of the National Food and Drug Act is used to study drugs before they are on the market. But after they are on the market, there is very, very, very little control or inspection. We have no inspection system in this state, we have practically none in the federal government, after these drugs get on the market. You are not only just going to give a choice to the pharmacist, you are forcing him for financial reasons to substitute those drugs, even though the most ethical and the better pharmacies are doing it in spite of their better judgment. I hope you will go along with the motion.

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

Mr. RICHARDSON: Mr. President and Members of the Senate: It has just been suggested to me in a stage whisper that perhaps I ought to ask unanimous consent to speak on this bill but, with my modest understanding of parliamentary procedure, I hope you will not rule me out of order if I discuss the issue that I understood was before the Senate.

I think my friend and my respected friend, and I mean exactly that, the

Senator from Oxford, Senator Fortier, is incorrect in his assessment of the bill that we have before us. I believe that we are talking about L.D. 2503, and I believe that we are talking about an amendment to that bill which is before you as H-723. And if my understanding is correct, Mr. President and Members of the Senate, this bill has nothing to do with generic drugs. If I am incorrect, I would certainly appreciate being corrected because I think that this legislation falls far short of what we ought to be doing, but at least it is a significant step in the right direction with respect to drug pricing. I do not understand that we are by this legislation granting authority to pharmacists to substitute generic drugs. If that were the proposal before us, I would oppose it, quite frankly.

This bill is trying to deal with the problem of giving the Maine consumer an opportunity to make an informed judgment, and I see no rational basis to object to that. With all deference to those who are speaking in opposition to this bill, I just fail to understand why there would be such vigorous opposition. As I say, if this matter involves generic drugs, if I have misunderstood the import of this amendment, I would hope that someone would correct it. Otherwise, if my understanding is correct, I hope you will join me in giving Maine consumers an opportunity to make an informed judgment on some of the most important purchases they make in their every day lives.

Mr. JOLY: Mr. President and Members of the Senate: We have heard a lot about protecting the consumers this session. I am beginning to wonder if the consumers are some little isolated group some where. I think we overlook the fact that everyone in this room is a consumer. We talk about having to have this posted. Anyone with a prescription that goes to a drug store, before they get it filled they can ask "how much is it going to cost me?" If they think they can get it cheaper somewhere else, they can go somewhere else and ask how much it costs there, and take the cheapest price if they can get a cheaper price.

The good Senator from Cumberland, Senator Berry, referred to lawyers, and I would like to go a little deeper into this

because we have a lot of lawyers in this chamber. For instance, we have to post, and this could come, we post that we will do a will for \$25, so someone comes and wants a will made. Well, how much is it going to cost? Well, there it is on the wall, \$25. Is it simple? Yes. And then you end up with some little old lady, and she decides she wants to leave her tapestry to Aunt Hilda and a set of dishes to someone else, and we end up with three hours of conversation and a six page will, and she comes back the next week and she doesn't like something or she forgot something, and we do it over again, and we are stuck with that \$25? This is an awful precedent, and it is not solving any problems. Therefore, I would be against the bill.

The PRESIDENT pro tem: The Chair recognizes the Senator from Cumberland, Senator Morrell.

Mr. MORRELL: Mr. President and Members of the Senate: I quite agree with Senator Joly. I think the consumers of Maine are no different than all of the citizens in the state of Maine. I think we would serve them well if we concentrated on the necessary emergency items, of which we have had very few this session, and stop getting into an area like this. Either we want to have every segment of the enterprise system, all businessmen, all professional people, post their prices or none. I have never been impressed with the fact that a small town druggist is making a killing; it is quite the reverse. I think he works pretty hard and pretty long hours, and I suspect does reasonably well but not overly so.

I think we would again be well disposed if we would concentrate on the things we came here primarily to do and stop trying to nickel and dime the little small merchant, as I feel this kind of legislation does.

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

Mr. BRENNAN: Mr. President and Members of the Senate: I think we are really losing the objective of this piece of legislation. Presently there is a regulation of the Board of Pharmacy that prohibits advertising, and the Board of Pharmacy is composed of

pharmacists. Really, there isn't much information that goes to the public. What we are trying to do with this legislation is give more information to the public.

It really comes down to a judgment that you have to make, to vote in the public interest or in the special interest. I think a vote in the public interest is to vote for some sort of display as to prices.

As far as generic drugs being in this bill, that is another bill that was killed about a month ago. This is strictly a bill that would provide for posting of prices, trying to give a little more information to the consumers. I can't understand why the Senate consistently votes overwhelmingly against the consumer interest. I have friends, or I had friends that were druggists, and I appreciate that I don't have many right now. I don't think that this is a radical type of proposal to post a sign in their window or someplace that is conspicuous in the drug store to tell the price. And again, there is much more control with prescription drugs than there is with non-prescription drugs. At least you have to have a prescription to buy those that would be required to be posted. The non-prescription drugs you can advertise. It is rather an incongruous situation. Frankly, there is a far better control with prescription drugs.

And again, as far as I am concerned, it distills to a vote in the public interest or a vote in a special interest, and those who want to vote in the public interest, I would urge them to vote to recede and concur.

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

Mr. BERRY: Mr. President and Members of the Senate: I would like to discuss the bill itself, if I might. The bill sets up a precedent here that would seem to be a very important change in our way of doing business in the state.

I would ask you to look at 2503. The procedure of having posted listed prices in a drug store is an open invitation of price cutting. If you have got two drug stores not too far apart and one wants to get the trade to come into his store, all he needs to do is put one cent less for the posted price and he is going to start a price war. This doesn't seem to me to be

a good thing to do with prescription drugs. If they want to get into a price war on aspirin, and start cutting down the price of aspirin or soda tablets, or something like that, maybe that is one thing, but we are talking about prescription drugs that are available only on a doctor's prescription.

You are also going to have on display before the public 150 drugs. You are going to call attention to drugs. It seems to me you are opening up here an invitation for people to be very concerned about drugs. People that perhaps wouldn't be interested too much in them, and they will be soliciting perhaps the opportunity to buy drugs and pouring over the lists to see what perhaps they would like to take as a drug.

Purely as an aside, I invite your attention to the fact that the one industry that Ralph Nadar hasn't got into yet is posting prices for lawyers. This might be a very good precedent to start too. Maybe we can go to Senator Brennan from Cumberland, if his prices were a dollar an hour less than his gubernatorial competitor, Senator Richardson from Cumberland. But I think quite seriously that we have a bad precedent here. We are opening up an invitation to everybody, as I say, for price cutting for an entirely different concept. Except in the newspaper, you don't go into any retail store and find posted all the different prices that you have got, and when we are talking about prescription drugs we can't be treating it like a can of tuna fish. I think that prescription drugs belong between the patient, the doctor, and the druggist, and not up here on public display.

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

Mr. FORTIER: Mr. President and Members of the Senate: I did not confuse this body when I injected the question of generic drugs. I did not mean to imply that generic drugs are spelled out in this bill, but what I did mean to imply was that when you are listing a price list and you are conscious of the price of an item, you are not going to list the most expensive item.

For example, I feel quite sure that there will probably be no drugs that are

definitely identified with concerns like Squibb, Lilley, Clark-Davis, and the likes of these companies who have absolute control over their production and over their manufacturer, but they will list generic drugs which are broader, which will be the only thing possible to list because, otherwise, you might have dozens and dozens of one particular drug manufactured by different companies, under different trade names, with different prices. So they will be forced by circumstances to advertise generic drugs and, consequently there will always be that tendency to sacrifice quality for price, and I believe the last place we want to sacrifice quality is in our prescription drugs.

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

The PRESIDENT pro tem: The Chair recognizes the Senator from Cumberland, Senator Morrell.

Mr. MORRELL: Mr. President and Members of the Senate: I would like to pose a question to Senator Brennan. Does he post for his consumers, in his window outside where everybody can see it, the precise scale of all of his charges so that his consumers, the consumers of Maine who go to him, can tell precisely what he is going to charge them before they make a commitment to him.

The PRESIDENT pro tem: The Senator from Cumberland, Senator Morrell, has posed a question through the Chair to the Senator from Cumberland, Senator Brennan, who may answer if he so desires.

The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: In regard to lawyers, I feel that lawyers are not sacred cows, I feel that doctors are not sacred cows. Lawyers do not advertise. I was driving up here the other day and listening to the radio, and I was urged to go to the Westgate Pharmacy to buy this, that and that. And I am always urged to go to various pharmacies through the news media, through the radio, newspaper and the television. Lawyers do not advertise at all. We also

have another distinction, we are talking about a commodity, not a service. It is a commodity.

If you want to introduce a bill dealing with advertising of lawyers, go and introduce the bill. Go through the appropriate channels, let the proponents make their case, let the opponents make their case, and let them make a recommendation to the legislature. Right now we are talking about advertising, in a very limited form, of prescription drug prices. And there is a clear distinction in regard to advertising between lawyers and druggists. There is no question that druggists advertise all the time, but not as far as the key thing that they sell.

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

Mr. BERRY: Mr. President and Members of the Senate: I must say that I think the thrust of Senator Morrell's remarks to Senator Brennan is that Senator Brennan appears to have a dual outlook on life. I think this is the real point. I think Senator Morrell is questioning whether Senator Brennan is thoroughly, one hundred percent, all the time, in every possible way interested in the little guy in the state.

The PRESIDENT pro tem: The Chair recognizes the Senator from Cumberland, Senator Morrell.

Mr. MORRELL: Mr. President and Members of the Senate: Senator Brennan from Cumberland knew what I meant, and the Senator from Cumberland, Senator Brennan, didn't answer the question. He is concerned about the consumer of the small druggist, but he is not concerned about his own consumer. I am quite willing in my business to post whatever he wants, and I think that most people are, if they make it across the board for everybody, including lawyers.

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

Mr. RICHARDSON: Mr. President and Members of the Senate: Now that I am up, I wish to remind those of you who are non-lawyers that the Maine Bar Association does publish a minimum fee schedule. Lawyers are not obligated to

adopt that minimum fee schedule, but there is a fee schedule published. Lawyers are under a professional obligation to discuss with their clients proposed fee arrangements. Lawyers do not advertise. At least, those who do are considered unprofessional and unethical by their brethren. I think it is an entirely different proposition, and I am appalled that the ordinarily perceptive Senator from Cumberland, Senator Morrell, would be drawn into this kind of a distinction.

We are talking about a commodity. We are talking about a prescription in which the professional judgment of the doctor has been exercised, and he has directed the pharmacist to utilize his professional skill in preparing a commodity which is then offered for sale.

Lawyers do not advertise, or at least they are not supposed to, and I think that there is a very real and valid distinction between those two types of professions. It doesn't do much for my sense of justice to talk in terms, as does the speeder on the highway who is stopped by the state trooper, to say, "Wait a minute officer, you should have seen the guy that just went by me. He was going three times as fast as I was. Why don't you go and arrest him?"

Now, if Senator Morrell or any other member of the Senate wants to take on legal fees of attorneys, I will be glad to refight that battle with them. I opposed the amendment to our law which permits contingent fees, and that was in 1965. I will be glad to get right back into that fight on the side of the Senator from Cumberland, Senator Morrell. I suggest that we might stick to the point, and the point is that this bill doesn't deal with generic drugs. It requires posting under the control of the Board of Pharmacy, and I can't see that anyone is going to be harmed by it.

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

Mr. KATZ: Mr. President and Members of the Senate: This has been a fascinating debate. I have always felt that this was the most talented Senate I have served in, and I have to admit that the one person who has made the most sense to me today is my seatmate, the

Senator from Cumberland, Senator Berry. All the other conversation that I have heard is almost parenthetical. When Senator Berry stood up and said that if we recede and concur and adopt this bill that we may reduce the price of drugs, I think he said it all, so I will vote to recede and concur.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: Hasn't this been a very interesting debate. There have been many different aspects that have been brought out today, and I think the remarks by Senator Fortier of Oxford are germane to this particular bill.

I think first I should start off by saying that from the notes we had taken at the Health and Institution Services meeting — and I might add at this particular point that the bill was overwhelmingly killed here in the Senate the first time around — that drugs are a chemical substance, they are not natural to the body, and are used wisely under the care of a physician. It must be taken to see that these drugs are not taken with other drugs. They can cause reactions when taken together and can cause a person to become worse off than he was before. I bring this out as a point of clarification primarily.

But getting to the nuts and bolts of the entire matter, price posting will start a lot of discounting here in the State of Maine. Eventually all of the drug stores in the State of Maine, if the smaller ones do survive, will be discounting. This will give the discounter an opportunity to analyze it from a viewpoint of making a buck instead of taking professional care of the people of the State of Maine. Once this posting has started, discounting is going to get even worse and will have spread to all pharmacies throughout the state.

But worse than that, this is going to interfere very seriously with the professional services offered by the pharmacy. I am talking of services such as home deliveries, the patient profile card system, emergency around the clerk service, consultations, and many other free services offered by the professional pharmacist.

The only thing that we will be accomplishing, if we pass this legislation, will be discounting. And this will produce, gentlemen, cheaper drugs, which is relevant to what Senator Fortier has said, cheaper drugs which for the most part cost less, and they do less for the consumer.

Now, we are speaking of 80 drugs being posted, and they are posted by the amount of units. Now, suppose a physician writes a prescription for a smaller amount of units. The price posting may say 50 units for \$5, but the prescription is written for 20 units. There is a professional fee of at least \$1.75 or \$2 that is added on, plus maybe 5 or 10 cents per capsule. So, in order to really get a good deal, he would be compelled to buy the 50 units if it was price posted.

I think it is really relevant when you bring out the facts about attorneys and doctors not posting their prices, because a professional pharmacy, when they do advertise, they are not advertising drugs. They are advertising everything over and above their prescription counter, and this is to create business to sell other products in their store. I think many of the people who are involved in the legal profession fail to take into consideration the overwhelming costs that these pharmacists must go to. You cannot hire a pharmacist today to work in any particular pharmacy for less than \$275 a week. And with the rising costs as they stand all over the State of Maine, I can see very definitely that you are going to drive many of the small independent pharmacists out of business and create a market for the biggies, and this is one thing that we do not want to do.

Now, many senior citizens in the State of Maine are very concerned so that they are looking for lower priced drugs. They have various ways of obtaining it. Some of it is through mail orders to their national association outside of the State of Maine. But it was brought out very clearly during the public hearing that if any of these people run out of their drugs during the course of a weekend, they do not hesitate to call their physician, and he in turn calls the local pharmacist, and he in turn goes down to the pharmacy and fills this emergency prescription

and delivers it to the home for possibly 50 cents. But this is a part of the service that they are willing to do because they feel very strongly about this.

If there is any relevance in the fact that the members of the Senate are really concerned with the private enterprise system here in the State of Maine, and these people have been very ethical and very honest, I think the most honorable thing that we can possibly do, since there is only about nine months between now and the next regular session, is to put this particular matter to study. I am quite sure these people will be very, very happy to cooperate to give you their input insofar as this particular matter is concerned. I think then we could come forth with a very feasible, practical document that would be a benefit both to the consumer in the State of Maine and to the individual small businessman in the State of Maine. Mr. President, I would very definitely oppose the motion to recede and concur.

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

Mr. JOLY: Mr. President and members of the Senate: There is another thing that bothers me about this. You talk about 80 drugs that are going to be posted. To make it simple, let's say there are eight pharmaceutical firms and they each put out the drug that is used the most. So are we going to only get ten drugs listed on this posting? You are going to put right there the eight companies and their prices, and there is going to be some differentiation. And a doctor prescribes a drug for you, perhaps because he is more confident of one particular firm than of another one, and you are going to go down to the drug store with this in hand, and you are going to notice on the wall that there is another one for 15 cents less. It is going to confuse the consumer. The doctor is trying to do his best.

On the other hand, if this is only one drug, how is the state agency going to decide which one of the eight or ten companies that put this drug out they are going to list? And what if an enterprising salesman for a new company comes into the state with a product and successfully sells a lot of

doctors that his product is better than the other companies, and they have it on hand, and the doctor prescribes that one and the customer goes to the store and doesn't see this one posted?

To me, this is a very, very poor bill.

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

Mr. OLFENE: Mr. President and Members of the Senate: I have listened to some length here, and I just want to bring in a view of myself as, hopefully, a successful businessman. I am not after the lawyers, I am not after the druggists, or anyone in this case. I have often thought though in my experience in business in dealing with the legal profession that if I asked three lawyers the same question I could be assured of two things: three different answers and three different bills.

But basically, let's look at this thing basically as a business proposition. You are mandating. This is what is bad about it. You are forcing them, you are requiring them. Gentlemen, we are having so much of that today that look at what has happened. We are chipping away at the initiative of the American people by mandating and forcing. This is a free enterprise system this country was built on, and we are gradually chipping away and destroying it.

I am opposed to the philosophy that we mandate this type of thing into the free enterprise system. Therefore, I will not support the motion to recede and concur, and hope that you will follow along in that manner.

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

Mr. CYR: Mr. President and Members of the Senate: Very briefly, I would like to explain to my Minority Leader why I am going to oppose his motion, even at the expense of possibly being labeled anti-consumer.

To me, I think nobody has really approached this realistically. To me, I think it is a phony bill. If you don't believe me, just try to read the name on a prescription. I think if we are to pass this here, we would have to require the doctors to improve their writing because there is only the pharmacist that can understand what he has written in the

prescription. Now, can you imagine a little lady with that prescription going from drug store to drug store trying to find out what there is in that prescription and what is posted in the drug store? I think it is just a phony bill and I shall oppose it for that reason.

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

Mr. WYMAN: Mr. President and Members of the Senate: This is my ninth term, and I am going to make a motion which I hope is in order, and which I have never heard made in this Senate. I am going to move the previous question.

The PRESIDENT pro tem: The Senator from Washington, Senator Wyman, has now moved the previous question. Is it the pleasure of the Senate to entertain the previous question?

The motion prevailed.

The PRESIDENT pro tem: The pending motion before the Senate is the motion of the Senator from Cumberland, Senator Brennan, that the Senate recede and concur with the House on Bill, "An Act Relating to Price Information on Prescription Drugs and Permitting Advertising of Prescription Drug Prices", L. D. 2503. 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 those Senators in favor of ordering a roll call please rise and remain standing until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending motion before the Senate is the motion of the Senator from Cumberland, Senator Brennan, that the Senate recede and concur. A "Yes" vote will be in favor of the motion to recede and concur; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Brennan, Conley, Cummings, Katz, Richardson, Roberts, Speers, Tanous.

NAYS: Anderson, Berry, Cianchette, Clifford, Cox, Cyr, Danton, Fortier, Graffam, Greeley, Haskell, Henley, Hichens, Joly, Kelley, Marcotte, Minkowsky, Morrell, Olfene, Sewall, Shute, Wyman.

ABSENT: Senators Huber, Schulten, MacLeod.

A roll call was had. Eight Senators having voted in the affirmative, and 22 Senators having voted in the negative, with three Senators being absent, the motion did not prevail.

Mr. Hichens of York then moved that the Senate Adhere.

Thereupon, a viva voce vote being in doubt, the Chair ordered a division. 20 Senators having voted in the affirmative, and seven Senators having voted in the negative, the motion prevailed.

The President pro tem laid before the Senate the fourth tabled and specially assigned 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).

Tabled—March 13, 1974 by Senator Shute of Franklin.

Pending—Passage to be Engrossed.

(Committee Amendment "B" (S-374).)

(House Amendment "A" (H-753).)

On motion by Mr. Shute of Franklin, and under suspension of the rules, the Senate voted to reconsider its action whereby Committee Amendment "B" was Adopted and, on subsequent motion by the same Senator, Committee Amendment "B" was Indefinitely Postponed.

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

Mr. BERRY: Mr. President, I take this opportunity to say that there will be no session this afternoon. It is the intent to recess and get any papers that the House has ready for us but, due to tonight's festivities, committee meetings and so forth, there will be no session after lunch.

The PRESIDENT pro tem: Is it now the pleasure of the Senate that this bill be passed to be engrossed?

Thereupon, the Bill was Passed to be Engrossed.

Sent down for concurrence.

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

Senate Reports — from 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). Majority Report — Ought to Pass; Minority Report — Ought Not to Pass.

Tabled — March 13, 1974 by Senator Berry of Cumberland.

Pending — Acceptance of Either Report.

On motion by Mr. Shute of Franklin, retabled and Tomorrow Assigned, pending Acceptance of Either Report.

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

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

Tabled — March 13, 1974 by Senator Shute of Franklin.

Pending — Passage to be Engrossed.

(Senate Amendment "A" (S-373), Senate Amendment "B" (S-380) and Senate Amendment "C" (S-388).)

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

Senate Amendment "D", Filing No. S-397, was Read.

The PRESIDENT pro tem: The Senator has the floor.

Mr. SHUTE: Mr. President and Members of the Senate: Lest there be some concern about this amendment, since we are all experts on the election law process, or we wouldn't be here, I would just like to remind you this is nothing other than a technical correction in the laws and there is no substantive change at all.

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

Thereupon, Senate Amendment "D" was Adopted and the Bill, as Amended, Passed to be Engrossed.

Sent down for concurrence.

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

Joint Order — Relative to Joint Rules — addition of Joint Rule 28. (H. P. 2006)

Tabled — March 13, 1974 by Senator Berry of Cumberland.

Pending — Passage.

The PRESIDENT pro tem: The Chair

recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President, I wonder if the Secretary will read the order.

Thereupon, the Joint Order was Read by the Secretary.

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

Mr. BERRY: Mr. President and Members of the Senate: I think the purpose and philosophy of the order is outstanding and I subscribe to it one hundred percent. However, as was pointed out, it is very easy under the guise of rewording and retitling to circumvent an order such as this. There would be an absolute prohibition against the introduction of such an order, except with a two-thirds vote, and a two-thirds vote can be very hard to get. The state might find itself in the position of needing a particular piece of legislation that had been rejected at the regular session, where circumstances had changed and we really needed the legislation to be considered at a special session. This would effectively block that. I think those are two reasons why, as much as I subscribe to the basic philosophy and wish it could be implemented, but I think this is not a practical restraint on the problem.

I move the order be indefinitely postponed.

The PRESIDENT pro tem: The Senator from Cumberland, Senator Berry, now moves that the Joint Order (H. P. 2006) be indefinitely postponed.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: I appreciate the remarks of the good Senator from Cumberland, Senator Berry, but I would oppose his motion to indefinitely postpone this order, and would simply like to say that the arguments that the good Senator made relative to circumvention of this order by changing a few commas here and there, or dotting an "i" or crossing a "t", or changing one or two words and retitling a matter, is precisely the same kind of argument that can be made under our present rules, whereby we do not allow a subject matter that has once been disposed of in

this body to come back before the body under color of amendment to any particular matter that is before this body at a later time.

It does require at the present time a two-thirds vote, a Joint Order introduced and passage by two-thirds vote, to recall an item that we have already dealt with from the legislative file. The same argument can be made as to the circumvention of that particular rule, that an amendment can change a comma, or cross a "t" or dot an "i", and therefore is not the same type of matter. But I think it obvious that it is up to the ruling of the chair as to the germaneness of the particular matter, and the Chair in its judgment must rule as to whether or not this matter is in effect the same matter that had been rejected before. That same type of procedure would apply in this case, that a bill that would be attempted to be introduced in the special session would be judged by the Chair as to its germaneness, as to whether or not the bill is the same that had been introduced in a prior session, in the regular session. And if in the judgment of the Chair it is the same matter, then that bill shall be excluded unless it is brought to the floor by a two-thirds vote of both branches. It seems to me that this rule makes eminent sense.

I would like to point out that the Congress of the United States operates as one Congress for two years, has two regular sessions, a first session and a second session, and the bills introduced in the first session carry over into the second session. If they are killed in the first session, that's it, they are killed and they are not reintroduced. It is one Congress. This state also operates on the basis of being one legislature. We are the 106th Legislature, and we remain that until 107th is elected and seated.

It seems to me that it would cut down an awful lot on the kinds of problems and criticism that we have been subjected to in this special session if indeed we do have a recognition that we are indeed one legislature, and if we have dealt with a particular subject matter in the regular session, then we need not deal with it again in a special session, whether we have one, two, three or four special sessions.

There is the safeguard that is provided in this rule of requiring a two-thirds vote, but it is a safeguard, if there is an emergency. If there is any real need for that particular matter to be considered again, we can always introduce the order and recall it from the legislative files by a two-thirds vote, just as we do now for matters that we have considered in our regular session. I would oppose the motion to indefinitely postpone this order.

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

Mr. JOLY: Mr. President and Members of the Senate: I hate to disagree with my beloved leader, but I think perhaps he is a little over-sensitive on this. Maybe he feels that perhaps this bill is a chastisement of the leadership for having let in so many bills this year. Well, I think perhaps this isn't all the part of the leadership. They get an awful lot of pressure on them from individual members of the legislature and from outside groups. I would think if I were a leader, a member of the leadership, that I would enjoy having something like this in the laws because it would give me a good solid reason to tell people we just can't do it. I don't think anybody has been any more critical than I have of the length of this session, and I think we owe it to the taxpayers of Maine to pass this order.

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

Mr. HICHENS: Mr. President and Members of the Senate: I too would rise in opposition to the motion to indefinitely postpone. The main opposition I have had since being a legislator to regular sessions or annual sessions is the fact that bills were being reintroduced session after session. The reason for a special session is for emergency bills and to correct mistakes we might have made in the regular session. If we have killed a bill in the regular session, I do not feel that that is a mistake that cannot be taken care of by a two-thirds vote of approval by the members in that special session. We just had a very good example of that this morning on one of the three drug bills which were soundly

defeated in the regular session. A study was approved, and the legislative council did not see it in their wisdom to send it out to study, but yet they let the three bills come right back in by exactly the same sponsors in exactly the same reading. To me, we have wasted an awful lot of time on those bills and some of the others which have been reintroduced in this special session, and I think this answers that problem.

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

Mr. BERRY: Mr. President and Members of the Senate: The laudable purpose of the order, of course, I subscribe to one hundred percent. The order will increase the responsibilities and the problems of leadership tremendously, I am sure, because all you good gentlemen will come in with reworded legislative documents that were turned down in the regular session, and you will say, "Here's my bill, and it is not the same one." So leadership will, of course, have to keep your friendship, and they will say "No, it is not the same bill," and let it in.

May I as an aside say that we are talking about the length of the session and how you get bills into special sessions, but I have never seen the Governor's call used more for getting in old chestnuts than this particular Governor's call was used for too. But as you know, I am full of love and affection and I am sensitive to the troops, and I am an old amateur radio operator and I transmit, but when you transmit, you have to receive too. And I see loyal people who love me, as Senator Joly loves me and Senator Hichens, Senator Katz and Senator Minkowsky, all you fine people, so I am going to withdraw my motion.

The PRESIDENT pro tem: The Senator from Cumberland, Senator Berry, has now withdrawn his motion to indefinitely postpone the Joint Order.

The Secretary will now Read House Amendment "A".

Thereupon, House Amendment "A" was Read and Adopted and the Joint Order, as Amended, received Passage in concurrence.

The President pro tem laid before the

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

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)

Pending — Passage to be Engrossed.

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

Senate Amendment "A", Filing No. S-399, was Read.

The PRESIDENT pro tem: The Senator has the floor.

Mr. BERRY: Mr. President and Members of the Senate: Senate Amendment "A" is a redraft of the document that was presented to the committee in an attempt to work out a general solution to two particular problems. The situations are probably known to everybody. This would appear to rectify two situations that are worthy of consideration, and I would move that the amendment be adopted.

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

Mr. SPEERS: Mr. President and Members of the Senate: I would like to direct a question to the good Senator from Cumberland, Senator Berry, through the Chair. The particular situation that I have been concerned with in this particular bill is a situation where a district court judge would not have the time that he served as a district court judge credited toward his retirement if he left being a district court judge and were elevated in the judicial system to becoming a superior court judge. This has given rise to a problem in a situation where a district court judge may be eminently qualified to be appointed to the superior court, but he himself has declined such an appointment because it would have an adverse effect upon his retirement service. He has served a certain number of years as a district court judge and perhaps has maybe one or two more years to go before he is eligible for his retirement. If he were elevated to the superior court, his service as a district court judge has been in the past, or would be under the present law, just

wiped out, and he would have to start all over again as a superior court judge. I think the concern has been that the time that he spent as a district court judge be credited as well to the time that he would be serving as a member of either the superior or the supreme court. I would like to direct my question to the Senator. It is a rather lengthy amendment, and in just briefly glancing through it, I don't see where that particular situation is specifically corrected. I hope that the amendment does address itself to that.

The PRESIDENT pro tem: The Senator from Kennebec, Senator Speers, has posed a question through the Chair which the Senator from Cumberland, Senator Berry, may answer if he so desires.

The Chair recognizes the Senator from Cumberland, Senator Richardson.

Mr. RICHARDSON: Mr. President and Members of the Senate: This legislation proposal was heard by the Committee on Veterans and Retirement. I have very serious reservations about this amendment. I have indicated to the distinguished Majority Leader, however, that I would not get into a big fight about it and I don't want to.

I do not believe that the Senator from Kennebec, Senator Speers, concern is justified. I don't suggest that it is unreasonable, but I think we ought to take the time right now to find out what exactly this amendment does, and I pledge to you members of the Senate that I will do just that between now and next Monday, the date to which I would hope someone would table this matter.

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

Thereupon, on motion by Mr. Berry of Cumberland, tabled and Specially Assigned for March 18, 1974, pending Adoption of Senate Amendment "A".

Papers from the House

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

Committee Reports Ought to Pass

The Committee on Education on, Bill, "An Act Offering Alternative Arrangements for Funding of Students

Living on Federal Establishments.” (H. P. 2040) (L. D. 2574)

Reports that the same Ought to Pass.

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

Which report was Read and Accepted in concurrence and the Bill Read Once. On motion by Mr. Katz of Kennebec, and under suspension of the rules, the Bill was then given its Second Reading.

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

Mr. SPEERS: Mr. President, I wonder if the good Senator from Kennebec, Senator Katz, might give us an explanation as to the purpose of this bill.

The PRESIDENT pro tem: The Senator from Kennebec, Senator Speers, poses a question through the Chair to the Senator from Kennebec, Senator Katz, who may answer if he so desires.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President and Members of the Senate: Yesterday the Senator from Penobscot, Senator Tanous, raised a question about a joint order. This is the bill that was covered by the joint order. Earlier today I moved to indefinitely postpone a Senate Amendment pertaining to errors and inconsistencies. This bill contains pretty much the same subject as the amendment to errors and inconsistencies, and is before you today in bill form so that it may be enacted before this weekend because of specific problems within the community of Limestone.

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

Mr. SPEERS: Mr. President, I appreciate having the parliamentary history on this particular bill, but I am still a little bit confused as to what the purpose of the bill is, what it actually does, and what the problem is that it attempts to correct.

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

Mr. KATZ: Mr. President and Members of the Senate: Public Law 874 provides that when the federal

government, through its presence in a community, makes a substantial impact by weight of numbers of the children which are to be educated within that community, the federal government will participate financially in the payment of the cost of education. There are two classes of students under public law 874, A students and B students. B students are children of federal employees who live off the reservation; A students are those who live on the federal reservation, and in this particular case on the Air Force Base up in Limestone. They are called A students, and these students are supported by the federal government.

It is an extremely complicated bill with which we have perplexed now ever since I have been around. This legislature has always attempted to the greatest extent possible to have the cost of the education of these youngsters picked up by the federal government, and the state stands by to aid and assist where the federal dollars do not extend far enough. The lawyers have been hassling over what the state's responsibilities are for years, and I have been perplexing trying to get answers out of the federal establishment without success. But in a meeting yesterday with 150 people from Limestone, the school board, the teachers and the superintendent of schools, it was agreed that the wording of this particular bill would satisfy the requirements of both the people in Limestone, the State Department of Education and the Committee on Education, that in the event the federal dollars to support the Limestone youngsters' education is inadequate, there is relief under this bill so the state will step in and pick up the void.

The PRESIDENT pro tem: Is the Senate ready for the question?

Thereupon, the Bill was Passed to be Engrossed, as Amended, in concurrence.

Reconsidered Matter

On motion by Mr. Tanous of Penobscot, the Senate voted to reconsider its prior action whereby Bill, "An Act Relating to Initial Changes in the Penal System of the State and the

Rights and Duties of Convicted Persons", (H. P. 2015) (L. D. 2556), was Passed to be Engrossed.

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

Senate Amendment "A", Filing No. S-394, was Read.

The PRESIDENT pro tem: The Senator has the floor.

Mr. TANOUS: Mr. President and Members of the Senate: Yesterday when we debated this particular bill, I mentioned in my debate that if the Majority Ought to Pass Report of the Committee was accepted by this body that I would offer an amendment to the bill providing for mandatory jail sentences in the crime of breaking, entering and larceny, on the second offense of breaking, entering and larceny. My prime concern for offering this amendment is that last year in the State of Maine there were over 4,000 violations of breaking, entering and larceny. Hopefully, a second offense jail sentence might reduce some of these crimes that are now occurring in our state. Thank you.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I would rise to oppose the adoption of this amendment. I think that mandatory jail sentences is a simplistic approach which the Senate should not take. Granted, breaking and entering is an increasing problem in the state, and I think the state should direct its attention towards solving that problem and eliminating that crime, but it seems to me the wrong approach is to mandate a jail sentence. Circumstances in every case are different and that is what the courts exist for, in the pre-sentencing investigation to examine those circumstances to see what punishment would best fit the crime and the individual involved in the crime, considering the victims as well.

I would hope that you would not begin a bad precedent by mandating jail sentences for the second offense of this crime. It is opening the door, it is the wrong approach, and I certainly would hope that the Senate would not take this

step which, in my opinion, Mr. President, is a wrong step in the wrong direction. Thank you.

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

Mr. TANOUS: Mr. President and Members of the Senate: This proposal was offered to the Joint Legislative Committee on Judiciary last year and I couldn't subscribe to that philosophy at that time, as Senator Berry yesterday mentioned in debate. But since that particular bill had been debated and defeated, I received petitions that were delivered to me bearing well over 4,000 signatures of citizens of the state requesting that something be done to increase the penalties in the hopes of avoiding further offenses.

Believe me the people want this, and whether they be experts in the area of prison reform or reform of criminals, certainly I don't think they are, but I know that they are quite discontent with the present system and the penalties that are usually applied to a second offender. I would not support it for a first offender. I applied to a second offender. I would not support it for a first offender. I believe that everybody is entitled to one mistake. But once a second offense has been committed in the same field or the same crime, certainly somewhere along the line that individual is out on the street contemplating breaking, entering and larceny, and certainly this isn't an accidental type of a crime, it is a planned crime. The individual has had sufficient opportunity to contemplate what he intends to do, and I assume when he does break and enter and commits larceny that it was a very intentional crime; it wasn't an accidental one. I think if the word got around that on a second offense he is going to end up in jail somewhere, or in the state prison, that probably it would prevent some of these individuals from considering the commission of the same crime. Also, Mr. President, when the vote is taken, I ask that it be taken by the "Yeas" and "Nays."

The PRESIDENT pro tem: A roll call has been requested.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: I know I speak as a minority in this body, not being a candidate for Governor, and I know and I understand that it is popular to be in favor of mandatory jail sentences, but I don't think that that makes it right. I think we all know that it isn't right because you are taking away part of the function of the court system and the judge, which is studying the crime committed, the person who committed it, and the people and the property against whom it has been committed. That is why they have pre-sentence investigations, so that the judge will have discretion. If the circumstances warrant a jail sentence, then it shall be a jail sentence. If the circumstances do not warrant it, then the judge should have that discretion to impose some other kind of penalty. So it seems to me that we are definitely moving, Mr. President, in the wrong direction and I welcome the roll call vote on this matter.

It seems to me that, as the good Senator from Penobscot said, if the circumstances dictate a more severe sentence, then let's make it more severe, let's make the penalty more severe, if the circumstances dictate a longer jail sentence might be in order. But to make it mandatory, it seems to me to be moving in the wrong direction.

The PRESIDENT pro tem: The pending motion before the Senate is the adoption of Senate Amendment "A".

The Chair recognizes the Senator from Oxford, Senator Henley.

Mr. HENLEY: Mr. President and Members of the Senate: Yesterday I opposed this bill, but it went through, and today I shall wholeheartedly support the mandatory sentence as an amendment. I am sick and tired of being told through the years that I have been in this legislature that we have got to be easier all the time on our criminals. I say that if anybody robs a bank, and they rob it the second time, they ought to know enough to know, and they ought to know, that they will land in jail and they are going to stay there a while.

I know, and we all know, that there are many loopholes to get defendants out of being convicted and serving time. It is being done every day. Our courts get cluttered so they are offered to plead

guilty to a lesser crime a good many times. I don't know what the answer is, but I still insist that I have heard for years that the judges do not want mandatory sentences, and I say it is just too bad. We should have a few mandatory sentences. The judges, just the same as we, are placed there to serve the people, and the people are getting downright sick of having crimes repeatedly committed and they jump on us, and I am quite sure that my good friend the Senator from Androscoggin, Senator Clifford, has been told the same thing, why don't they step on these people? Why do they let them repeat these crimes and let them off with the common statement that you hear, a slap on the wrist?

I do not have at hand, although I have had in previous debate on mandatory sentences, statistics, I have had actual statements, and I have had cases. There is one thing that I think we are all aware of, if you read the papers and watch television. Of course, we don't want to perhaps change our system of government to some of the foreign systems, but we do find that stiffer, stronger, mandatory sentences are getting effect in certain countries across the world. Japan has practically wiped out its dope traffic because of strong, very strong, mandatory sentences. In several other countries where they are using mandatory sentences, longer and stronger sentences, they are cutting down on crime. But what is happening here? It is still skyrocketing. So if this mandatory sentence attached to this bill for the second offense will help any, let's give it a try. If this legislature can bring about mandatory sentences, they can find out. If it helps a little bit, fine. If it doesn't, they can always change their minds. What this legislature does, some other legislature can undo. So I shall certainly support this amendment and I urge everyone else to do so too.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: There is a question I would like to pose to the good Senator from Penobscot, Senator Tanous. This bill as, I understand it, is a

recommendation of the Governor's Task Force on Corrections, which has made a study of this matter. I would inquire through the Chair as to whether or not this amendment was a recommendation of the Governor's Task Force on corrections?

The PRESIDENT pro tem: The Senator from Androscoggin, Senator Clifford, has posed a question through the Chair to the Senator from Penobscot, Senator Tanous, who may answer if he so desires.

The Chair recognizes that Senator.

Mr. TANOUS: Mr. President and Members of the Senate: This was never taken up in the Task Force, but I happen to be a member of the Task Force. And a member of the other body, Mr. Perkins, a member of the Task Force, supports the amendment. The amendment was intended to be originally introduced in the House. It was not my amendment. Some House member wanted to introduce it, but the bill never got to that stage over there. Of course, I was in favor of the amendment and I, therefore, am proposing it here today. But there are several of us who are on the Task Force who strongly favor this amendment.

The PRESIDENT pro tem: The pending motion before the Senate is the adoption of Senate Amendment "A". 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 adoption of Senate Amendment "A" to L. D. 2556, Bill, "An Act Relating to Initial Changes in the Penal System of the State and the Rights and Duties of Convicted Persons." A "Yes" vote will be in favor of adopting Senate Amendment "A"; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators — Berry, Cianchette, Cox, Fortier, Graffam, Greeley, Henley, Hichens, Joly, Olfene, Richardson,

Sewall, Shute, Tanous, Wyman, MacLeod.

NAYS: Senators — Brennan, Clifford, Conley, Cummings, Cyr, Danton, Haskell, Kelley, Marcotte, Minkowsky, Morrell, Roberts, Speers.

ABSENT: Senators — Anderson, Huber, Katz, Schulten.

A roll call was had. 16 Senators having voted in the affirmative, and 13 Senators having voted in the negative, with four Senators being absent, Senate Amendment "A" was Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

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

On motion by Mr. Berry of Cumberland, recessed until the sound of the bell.

After Recess

Called to order by the President.

The PRESIDENT: The Chair would like to thank the Senator from Penobscot, Senator Sewall, for handling a very difficult morning very well. (Applause)

The Chair recognizes the Senator from Penobscot, Senator Sewall.

Thereupon, on motion by Mr. Sewall of Penobscot, recessed until the sound of the bell.

After Recess

Called to order by the President.

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 Transportation is directed to report out a bill to repeal the law requiring motorcycles to keep their headlights on at all times. (H. P. 2042)

Comes from the House, Read and Passed.

Which was Read.

Mr. Berry of Cumberland moved that

the Joint Order be Indefinitely Postponed.

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

Mr. CLIFFORD: Mr. President, I would oppose the motion and request a division.

The PRESIDENT: A division has been requested. As many Senators as are in favor of the motion of the Senator from Cumberland, Senator Berry, that this order be indefinitely postponed will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A Division was had. 15 Senators having voted in the affirmative, and 10 Senators having voted in the negative, the Joint Order was Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

Papers from the House Committee Reports

Refer to 107th Legislature

The Committee on Transportation on, Resolve, Providing Funds for Supportive Facilities to Facilitate Transportation between Cousins and Great Chebeague Islands. (H.P. 1740) (L. D. 2186)

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

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

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

Ought to Pass in New Draft

The Committee on Taxation on, Bill, "An Act to Provide for a Temporary Increase in the Motor Fuel Tax and to Create a Task Force to Evaluate the Financing of Transportation Programs in the State of Maine." (H. P. 1806) (L. D. 2286)

Reported that the same Ought to Pass in New Draft under New Title: "An Act to Create a Task Force to Evaluate the Financing of Transportation Programs in the State of Maine." (H. P. 2034) (L. D. 2571)

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.

Divided Report

The Majority of the Committee on Agriculture on,

Bill, "An Act Repealing Milk Control Prices at the Retail Level." (H. P. 1656) (L. D. 2049)

Reports that the same Ought to Pass in New Draft under New Title: "An Act Relating to the Powers of the Milk Commission" (H. P. 2014) (L. D. 2554)

Signed:

Senators:

HICHENS of York

GRAFFAM of Cumberland

CYR of Aroostook

Representatives:

EVANS of Freedom

MORIN of Fort Kent

MAHANY of Easton

ALBERT of Limestone

HUNTER of Benton

PRATT of Parsonsfield

COONEY of Sabattus

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

Signed:

Representatives:

BERRY of Buxton

ROLLINS of Dixfield

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 Appropriations and Financial Affairs on,

Bill, "An Act Relating to Salary, Expenses and Travel of Members of Legislature." (H. P. 1928) (L. D. 2463)

Reports that the same Ought to Pass as Amended by Committee Amendment "A" (H-756).

Signed:

Senators:

SEWALL of Penobscot

CONLEY of Cumberland
MORRELL of Cumberland

Representatives:

BRAGDON of Perham
SMITH of Dover-Foxcroft
NORRIS of Brewer

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

Signed:

Representatives:

JALBERT of Lewiston
SILVERMAN of Calais
SPOUL of Augusta
CARTER of Winslow

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

Which reports were Read.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: Could someone from the committee explain what the bill does with the amendment?

The PRESIDENT: The Senator from Androscoggin, Senator Clifford, has posed an inquiry through the Chair which any member of the committee may answer if he desires.

The Chair recognizes the Senator from Penobscot, Senator Sewall.

Mr. SEWALL: Mr. President and Members of the Senate: The Appropriations Committee had a lot of soul searching to do on the report which we finally submitted for your consideration. As you recall, of course, there was a commission comprised of citizens from across the State of Maine who worked on this problem or this question as to whether or not legislators were being adequately paid for service to the State of Maine. This is, of course, a hard question because you have a fine line of too much or too little. Presently the commission feels that the members of the legislature are being paid too little and that this precludes many people from serving in the legislature. There are many people who cannot afford to take five or six months away from their businesses every other year and, hopefully, a month or two away from their businesses in the off-year.

So that the committee was really, as you can see from the report, we were divided even on our recommendations, but I think I am being frank in stating that the people who voted against this report were against any increase in legislative salaries or expenses. However, the majority of the committee did feel that this subject was worthy of being adopted in some form, so that this report reflects a compromise of sorts.

We, the committee, did follow the recommendations of the select commission and did recommend in the majority report that the recommendations be adopted, with one exception. That exception is that we have recommended that the legislative salaries be increased by 50 percent vis-a-vis the recommendations of the commission. They recommended that \$5,000 be paid to legislators for the regular session and that \$2,500 be paid for the off-year, plus an increase in expenses of \$25 per day. We have recommended that this be phased in over the next three years, that the legislature approve an increase in legislative salaries to 50 percent, or \$4,250, for the 107th, and then to scale it up to the full recommendation of a total of \$7,000 to take effect in the 108th Legislature. We felt that this was a reasonable compromise, with the present cash or funding situation which faces the state at this time. We did feel that more money should be paid legislators so that more people could afford to run for the legislature.

Mr. President, I move acceptance of the Majority Ought to Pass Report.

The PRESIDENT: The Senator from Penobscot, Senator Sewall, now moves that the Senate accept the Majority Ought to Pass as Amended Report of the Committee in concurrence.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President and Members of the Senate: I think I have got a completely consistent record. I have voted for every pay increase since I have been in the legislature. Today will be the first time that I shall not, and my reasoning perhaps might be of interest to you.

Again, again and again we have

wrestled with the question of the proper size of the legislature. Presently, with 151 members in the House and 33 in the Senate, we are probably one of the most representative bodies in the United States. As a matter of fact, when you go outside of New England, there are only perhaps two or three states where a representative in the House in Maine has fewer constituents than almost any other legislators in the United States. I am concerned that if we bring salaries up to a level which are fair and increasingly realistic that we will never, never, never get the votes to reduce the size of the legislature. On that basis, despite the fact that I think the report of the committee is honest and timely, despite the crunch for dollars, I shall not vote at this time in favor of passage, and I request a division.

The PRESIDENT: A division has been requested. As many Senators as are in favor of the motion of the Senator from Penobscot, Senator Sewall, to accept the Majority Ought to Pass as amended Report of the Committee in concurrence will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. 14 Senators having voted in the affirmative, and 11 Senators having voted in the negative, the Majority Ought to Pass as Amended Report of the Committee was Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Divided Report

Nine Members of the Committee on State Government on,

Bill, "An Act Reorganizing Executive Staff Functions." (H. P. 1902) (L. D. 2410)

Report in Report "A" that the same Ought to Pass in New Draft with New Title: "An Act Creating the Office of Executive Management and Providing for the Reorganizing and Executive Staff Functions" (H. P. 2039) (L. D. 2573)

Signed:

Senators:

SPEERS of Kennebec

CLIFFORD of Androscoggin

Representatives:

FARNHAM of Hampden

SILVERMAN of Calais

CURTIS of Orono

GAHAGAN of Caribou

STILLINGS of Berwick

GOODWIN of Bath

NAJARIAN of Portland

BUSTIN of Augusta

Two Members of the same Committee on the same subject report in Report "B" that the same Ought Not to Pass.

Signed:

Senator:

WYMAN of Washington

Representative:

CROMMETT of Millinocket

One member of the same Committee on the same subject matter reports in Report "C" that the same Ought to Pass.

Signed:

Representative:

COONEY of Sabattus

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

Which reports were Read.

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

Enactors

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

An Act to Increase the Authorized Bonding Indebtedness of the Maine State Housing Authority. (H. P. 1804) (L. D. 2284)

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

Mr. SPEERS: 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 question before the Senate is the enactment of An Act to Increase the

Authorized Bonding Indebtedness of the Maine State Housing Authority. A "Yes" vote will be in favor of enactment; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators — Berry, Brennan, Cianchette, Clifford, Conley, Cox, Cummings, Cyr, Danton, Fortier, Graffam, Hichens, Katz, Marcotte, Roberts, Sewall, Speers, Tanous, MacLeod.

NAYS: Senators — Greeley, Henley, Joly, Minkowsky, Olfene, Wyman.

ABSENT: Senators — Anderson,

Haskell, Huber, Kelley, Morrell, Richardson, Schulten, Shute.

A roll call was had. 19 Senators having voted in the affirmative, and six Senators having voted in the negative, with eight Senators being absent, the Bill was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

On motion by Mr. Sewall of Penobscot, Adjourned until 9:30 o'clock tomorrow morning.