

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

Tuesday, March 26, 1974

Senate called to order by the President.

Prayer by the Honorable Alton E. Cianchette of Pittsfield:

Let us pray. Humility and sincerity become those who hold public office by the will of God and of the sovereign people. Grant us therefore, Lord, a true humility to see ourselves always as your instruments for the common good and a sincerity that is profound. Amen.

Reading of the Journal of yesterday.

Papers From the House Non-concurrent Matter

Bill, "An Act Relating to Review, Reports and Proposed Amendments of the Maine State Retirement System." (S. P. 944) (L. D. 2590)

In the Senate March 22, 1974, Passed to be Engrossed as Amended by Senate Amendment "A" (S-421).

Comes from the House, Passed to be Engrossed as Amended by House Amendment "A" (H-794), in non-concurrence.

Thereupon, the Senate voted to Recede and Concur.

Under suspension of the rules, sent forthwith to the Engrossing Department.

Non-concurrent Matter

Bill, "An Act Making Supplemental Appropriations from the General Fund for the Fiscal Year Ending June 30, 1975 and Changing Certain Provisions of the Law Necessary to the Proper Operation of State Government." (S. P. 951) (L. D. 2602)

In the Senate March 22, 1974, Passed to be Engrossed.

Comes from the House, Passed to be Engrossed as Amended by House Amendments "F" (H-806) and "H" (809), in non-concurrence.

On motion by Mr. Sewall of Penobscot, the Senate voted to Recede from its action whereby the Bill was Passed to be Engrossed.

House Amendments "F" and "H" were Read.

Mr. Sewall of Penobscot then moved

that House Amendment "H" be indefinitely postponed.

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

Mr. BRENNAN: Mr. President and Members of the Senate: Could the good Senator from Penobscot please explain that amendment?

The PRESIDENT: The Senator from Cumberland, Senator Brennan, has posed an inquiry through the Chair which the Senator may answer if he so wishes.

The Chair recognizes the Senator from Penobscot, Senator Sewall.

Mr. SEWALL: Mr. President and Members of the Senate: Since I am not the author of this amendment, I would not be qualified to explain it in detail. However, a quick perusal of it indicates that one service is substituted in the supplemental budget instead of another. The Committee considered all these items and did not feel that the service which was being substituted for the one which we previously recommended merits support at this time.

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

Mr. CIANCHETTE: Mr. President and Members of the Senate: I understand that this Youth Services Coordinating Agency is now in business, was previously funded, and that there are some conflicts in the law that make this service necessary. I have been led to believe that this is a very well run program and it is extremely necessary. If I understand the amendment right, it is a transfer of funds and it is not an additional expense to the taxpayer. I think the money would be better spent in this Youth Services Department than it would be under the Mental Health and Welfare Department. I would strongly urge voting against the motion to indefinitely postpone, and I would ask for a roll call.

The PRESIDENT: A roll call has been requested. Is the Senate ready for the question?

The Chair recognizes the Senator from Aroostook, Senator Haskell.

Mr. HASKELL: Mr. President and Members of the Senate: As I recall the

testimony we had on this particular bill before the Appropriations Committee, there was an explanation that in the probation and parole system in the state the parole officers were carrying an excessive case load and could not do effective parole work, so that there was a request for additional probation and parole personnel in order to create a more effective parole system.

The effect of this amendment, as I understand it, would be to delete these additional probation and parole places and put in its place a newer system, which up to this point has been funded federally, concerned with juveniles. The intent to provide the new service is laudable but they are doing it, it seems to me, at the expense of an established agency that has demonstrated a clear need for additional positions, and it seems a little shortsighted to deny these positions, which very apparently were needed, in order to create a new apparatus.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: It is my understanding in reference to this particular document that it is not adding on, definitely not adding on four new employees. This amendment only covers about \$28,000 to continue an ongoing program that has been funded by LEA. I would support the adoption of House Amendment "H".

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

Mr. BERRY: Mr. President and Members of the Senate: I was talking to the Attorney General's office yesterday afternoon on another matter, and he conveyed the news to me that his request to the Appropriations Committee had been fruitless, and knowing the problems they are dealing in trying to help the legislature out, with law enforcement problems and a few others, what we have here is a tremendous competition for the dollar. I think the long hours that the Appropriations Committee has put in, with members of both parties on it, it resulted in a pretty good document. We could all start

nit-picking and trying to transfer items out of one program into another.

I would like to advise the two Senators, Senator Minkowsky and Senator Cianchette, that there is a law enforcement agency grant from the federal government far in excess of \$28,000 which is headed toward the State of Maine, and will result in a very good and useful productive youth program, so I think their concerns are going to be well met.

I would strongly urge that you vote for the motion that this amendment be indefinitely postponed.

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

Obviously less than one-fifth having arisen, a roll call is not ordered. Is it now the pleasure of the Senate to indefinitely postpone House Amendment "H" in non-concurrence?

The motion prevailed.

House Amendment "F" was then Read and Adopted in concurrence and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

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

Communications

STATE OF MAINE

Office of the Governor

Augusta, Maine

04330

March 26, 1974

To Honorable Members of the Senate:

I am pleased to submit the report entitled "Federal Funds in Maine — A Second Look." This summarizes and details the changes that have taken place since an earlier report "Federal Funds in Maine" was prepared early in 1973.

Total Federal outlays in Maine in fiscal year 1973 were in excess of \$1.025 billion and includes over \$245 million in

cash payments to state and local governments. These amounts represent significant increases over 1971 levels both in total and per-capita receipts and show that efforts by our state agencies to maximize use of available federal dollars have tended to be successful. A continuation of our efforts in this area is vitally important to the attainment of our future goals for the state.

I wish to thank the State Budget Office for preparing this report and particularly Robert W. Harding and Richard R. Ericson, the analysts who researched and wrote it.

Respectfully,
Kenneth M. Curtis
Governor

Which was Read and with
accompanying papers
Ordered Placed on File.

STATE OF MAINE
House of Representatives
Augusta, Maine 04330

March 25, 1974

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

Today the House voted to Adhere to its action on the following matter:

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

Whereby on March 14 it indefinitely postponed the bill and accompanying papers.

Respectfully,
E. Louise Lincoln, Clerk
House of Representatives

Which was Read and Ordered Placed on File.

Orders

On motion by Mr. Wyman of Washington,

WHEREAS, present statutory provisions authorize municipalities to retain all or a portion of the State tax levy to offset local appropriations; and

WHEREAS, the proceeds of the State tax levy which are to be so retained exceed in some instances the amount of local appropriations; and

WHEREAS, existing legislation

makes no provisions for the manner in which such excess proceeds of the State tax levy are to be handled; now, therefore, be it

ORDERED, the House concurring, that the Legislative Council be authorized and directed to study the manner in which the State tax in municipalities is handled under the Revised Statutes, Title 36, sections 451, 452 and 453 to determine how such excess proceeds of the State tax levy should be treated; and be it further

ORDERED, that the Bureaus of Taxation and of Property Taxation be directed to provide the Council with such technical information and other assistance as the Council deems necessary or desirable to carry out the purposes of this Order; and be it further;

ORDERED, that the Council report its findings and recommendations to the next regular session of the Legislature. (S. P. 956)

Which was Read and Passed.

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

Committee Reports House

Ought to Pass in New Draft

The Committee on State Government on, Bill, "An Act Relating to Conflicts of Interests and Purchases by Governmental Units." (H. P. 1753) (L. D. 2212)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 2080) (L. D. 2603).

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

Which report was Read and Accepted in concurrence and the Bill in New Draft Read Once. Under suspension of the rules, the Bill was then given its Second Reading and Passed to be Engrossed in concurrence.

Thereupon, under further suspension of the rules, sent forthwith to the Engrossing Department.

Senate Divided Report

The Majority of the Committee on Judiciary on,

Bill, "An Act Relating to Mandatory Sentences for Persons Convicted of Second Offense Breaking, Entering and

Larceny or Burglary." (S. P. 957) (L. D. 2607)

Reported pursuant to Joint Order (H. P. 2062)

That the same Ought Not to Pass.

Signed:

Senators:

SPEERS of Kennebec

BRENNAN of Cumberland

Representatives:

KILROY of Portland

WHEELER of Portland

McKERNAN of Bangor

DUNLEAVY of Presque Isle

The Minority of the Committee on the same subject matter reported pursuant to Joint Order (H. P. 2062) that the same Ought to Pass.

Signed:

Senator:

TANOUS of Penobscot

Representatives:

CARRIER of Westbrook

BAKER of Orrington

WHITE of Guilford

Which reports were Read.

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

(Off Record Remarks)

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

After Recess

Called to order by the President.

Joint Resolution

Out of order and under suspension of the rules, Mr. Katz of Kennebec presented the following Resolution and moved its Adoption:

STATE OF MAINE

In the Year of Our Lord One Thousand Nine Hundred and Seventy-Four

IN MEMORIAM

WHEREAS, Saturday, the 23rd day of March, brought to a tragic close the useful life of the Honorable Cyril M. Joly, Sr. of Waterville; and

WHEREAS, Judge Joly was a prominent and productive member of many councils and has left to each a

deep and meaningful record of service; and

WHEREAS, he was a highly respected member of the legal profession, whose varied and distinguished accomplishments have contributed immensely to the dynamic growth and progress of his city and the State of Maine; and

WHEREAS, he will be deeply missed by his family, by his many colleagues, friends and associates and the community he served so well; now, therefore, be it

RESOLVED: That we, the Members of the One Hundred and Sixth Legislature of the State of Maine, assembled this day in Special Legislative Session, are joined in this tribute to the memory of Cyril M. Joly, Sr. each in his own way in extending thoughts and prayers of sympathy and condolence to his sons and daughter and their families and all others who must share this great loss; and be it further

RESOLVED: That a suitable copy of this resolution be prepared for the members of the family and that when the Senate and House of Representatives of the State of Maine adjourn this day, they do so in his memory. (S. P. 958)

Which was Read and Adopted.

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

Senate Papers

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

Communications

State of Maine

One Hundred and Sixth Legislature

Committee on Transportation

March 22, 1974

Honorable Kenneth P. MacLeod

President of the Senate

State House

Augusta, Maine

Dear President MacLeod:

It is a pleasure to inform you that the Committee on Transportation has considered and acted on all matters referred to it by the One Hundred and Sixth Legislature in First Special Session.

Following is the tabulation of bills as reported out of committee:

Total Number of
Bills Received 27
Ought to Pass 7
Ought to Pass as Amended 4
Ought to Pass
in New Draft 5
Divided Reports 3
Leave to Withdraw 6
Referred to the One Hundred
and Seventh Legislature 2

Very truly yours,

(Signed) Edwin H. Greeley, Senator
Chairman

Which was Read and Ordered Placed
on File.

Joint Resolution

Mr. Brennan of Cumberland presented
the following Joint Resolution and
moved its adoption.

In the Year of Our Lord One Thousand
Nine Hundred and Seventy-Four

Joint Resolution Providing
Recognition to Vietnam Veterans Day

WE, the Senate and House of
Representatives of the State of Maine,
assembled in the Special Session of the
One Hundred and Sixth Maine
Legislature, do respectfully represent
that:

WHEREAS, many Maine citizens
have faithfully served their country in
the Armed Forces in Vietnam and
Southeast Asia; and

WHEREAS, many have sustained
injuries or sacrificed in other significant
ways and many have made the supreme
sacrifice and have given their lives; and

WHEREAS, some have been prisoners
of war or missing in action; and

WHEREAS, some are still listed
officially as missing in action; and

WHEREAS, the Honorable Richard
M. Nixon, President of the United States
of America, urged the people of this
nation to join in commemorating
Friday, March 29, 1974 as Vietnam
Veterans Day; and

WHEREAS, the Honorable Kenneth
M. Curtis, Governor of the State of
Maine will have issued a Proclamation
directing that the flag of the United
States be displayed on all public
buildings on that day and requesting

officials of state and local governments,
schools and civic and patriotic
organizations to give their enthusiastic
support to appropriate ceremonies and
observances throughout the State; now,
therefore, be it

RESOLVED: That We, the Senate and
the House of Representatives of the State
of Maine, express the deep and lasting
gratitude of the 106th Maine State
Legislature for the services and
sacrifices of our fellow Maine citizens in
the military service of our country
during the Vietnam conflict and urge all
citizens of the State of Maine to
participate in the events of this day of
March 29, 1974 as one means of honoring
those men and women of Maine who
served their country faithfully and
courageously during this period of time;
and be it further

RESOLVED: That copies of this
resolution, duly authenticated by the
Secretary of State, be released to the
news media. (S. P. 960)

Which was Read and Adopted.

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

Orders

On motion by Mr. Sewall of Penobscot,
ORDERED, the House concurring,
that the Joint Standing Committee on
Appropriations and Financial Affairs
report out a bill Making Additional
Appropriations for the Expenditures of
State Government and for Other
Purposes for the Fiscal Year Ending
June 30, 1974. (S. P. 959)

Which was Read.

The PRESIDENT: The Senator has
the floor.

Mr. SEWALL: Mr. President and
Members of the Senate: Very
reluctantly I stand this morning to
present this order, which is the result of
a communication which I have received
from Dr. Fisher stating that the state is
approximately \$650,000 short of
available funds to meet liability
incurred under the SSI program, so that
we, the Appropriations Committee, are
being asked to report out a bill which
would appropriate this amount of
money.

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

Thereupon, the Joint Order received Passage.

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

Orders of the Day

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

Bill, An Act Relating to the Powers of Maine Port Authority. (S. P. 931) (L. D. 2564)

Tabled — March 25, 1974 by Senator Sewall of Penobscot.

Pending — Enactment.

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

Mr. BERRY: Mr. President, the bill before us now, An Act Relating to the Powers of Maine Port Authority, is an extremely interesting bill, and I would appreciate it very much if a member of the Committee would tell the Senate a few of the important features of this bill.

The PRESIDENT: The Senator from Cumberland, Senator Berry, has posed an inquiry through the Chair to any member of the Committee who may answer if he wishes.

The Chair recognizes the Senator from Waldo, Senator Greeley.

Mr. GREELEY: Mr. President, I didn't quite get the question.

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

Mr. BERRY: Mr. President, my question is addressed to the fact that this is an important bill, and I wondered if any member of the Committee would explain the features of the bill to the Senate.

The PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Greeley.

Mr. GREELEY: Mr. President and Members of the Senate: I think there are other people who could explain this bill, if they ever have a chance, to a much better advantage than I can.

I think this is one of the most important bills in this legislature. This pertains to the betterment of the Maine Port Authority, pertaining to the facility in the City of Portland. Along with this bill, evidently, there is some chance of

setting up an oil refinery in the Town of Sanford.

Now, this bill will be permissive for the department to issue revenue bonds, and these bonds will be similar to those for the Maine Turnpike Authority.

There has been some question, I think, of the people that have been involved in the advancement of the Port Authority. I think Mr. Stevens started with the Maine Highway Commission before the Port Authority was even organized — I am not sure — but now, evidently, he is retired and he is still involved with the Maine Port Authority, and I think there is some question about Mr. Stevens being hired by the Maine Port Authority. Of course, Roger Mallar has taken over for Dave Stevens. Now, I was a member of this body when Dave Stevens was State Tax Assessor. I was also a member of this body when Dave Stevens was put in as Commissioner of the Department of Health and Welfare. I was also here when Dave Stevens was appointed as a Highway Commissioner, and as I remember, his confirmation was January 20, 1954. I was also here when Dave Stevens resigned. And as far as Dave Stevens is concerned, I don't know where you would find a better person to be working for the Maine Port Authority than Mr. Stevens. After all these years, I don't believe he is ready to sell the State of Maine down the river.

As far as Roger Mallar is concerned, the head of the Department of Transportation, I think he is the best qualified of any person in the United States because I think he knows more about it than anybody else in the United States.

Now, this bill came before my Committee and there wasn't much strength on the part of the proponents and the opponents were very weak. But as time went on and questions arose, I began to try to dig into the thing. I admit that I am dumb about things like this, but I gave the rough draft to some of the most influential and able lobbyists in this legislature and asked them if there was any way they could pick this bill apart. We are also fortunate to have as a legislative assistant of this Committee a Mrs. Ginder and she has talked with some of these lobbyists and has

impressed them very much. Whoever had anything to do with having Mrs. Ginder come as a legislative assistant to my committee, I want to thank him for it. She is a graduate of the University of Missouri Law School, she is a very dedicated person, and I have a lot of faith in her ability. I have gone along with her suggestion and she has revised the bill, so that is why I signed it Ought to Pass.

I think it is a chance for a big development for the State of Maine, and it is about time that we accepted it. So I am hoping that the bill will be enacted. That is the way I feel about it.

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

Mr. SHUTE: Mr. President and Members of the Senate: I would like to echo what the Chairman of the Committee on Transportation has enunciated this morning. We spent a lot of time on this document before the Committee on Transportation, and rightly so because I too consider this the most important document with which I have been associated in my several terms in the legislature because of what it will do for the State of Maine.

I think it will help the economy of the state more than anything else that we have tackled in this session of the legislature. It certainly will be a great boon to the southern part of the state. It doesn't necessarily put the State of Maine in the oil business, as indicated in the tract that was sent around to us by Senator Berry earlier today, in which he quoted the Bangor Daily News editorial of last Saturday-Sunday. A number of questions were raised in this editorial and I believe this is the problem that Senator Berry has. It indicates that he has caught some kind of scent to this bill, that something is fishy about it.

This Committee went over this document very closely. We asked a lot of searching questions. And in the end, I asked the former Commissioner, Mr. Stevens, I said, "Is there any question that we should have asked you that we haven't asked? Do you see anything wrong with this, as a responsible citizen of the State of Maine?" He said, "I have lived with this thing for a long time and I

have studied it and, frankly, I don't see anything wrong with it." I believe him.

The Port Authority would have the opportunity to sell these bonds, and in no way does it tie in with the type of fiasco that the Vahlsing thing had established earlier. Gibbs Oil Company is not in the oil refining business at the present time, but they have been involved in oil in New England for a number of years and they are a responsible organization. They do wish to establish their first refinery, and they would like to build it in the Town of Sanford.

The State of Maine owns this property on the Portland waterfront. It has acquired additional property formerly owned by the Canadian National people. It is large enough so that, through this bonding and investment which people in the state and out of the state would participate in, the state would build a new pier which would be adjacent to the current state pier. Also this would be a future location for a container facility, a container ship facility in the state. And I see a great opportunity in the future for container ship business in the state as we improve our industry over the years. Adjacent to this new pier would be a finger pier at which two vessels could unload their oil at 300,000 barrels an hour, I believe the figure is. This would go into a pipeline which would be built by Gibbs and through 15 or 16 miles, whatever the distance is from there to the Sanford area.

Whether or not the state would have to secure building permits from itself, I just don't see this question that is raised by the Bangor Daily News. The state would be involved in building the dock, and then Gibbs would provide the facilities for this dock. I really don't see any overlapping interest, because the state's interest in this would end at the waterfront, and from there on it would be Gibbs Oil, with the other people who are involved with the Gibbs organization: the Northern Illinois Gas Company, which is interested in the petrochemical byproducts of the refinery, and Burma Oil, which has billions of dollars behind it in the shipping business.

I see a great future for the state, not only in Portland as a larger oil port,

where indeed probably our oil expansion should take place, but also in the economy that can be generated through a true container ship port. Perhaps some day we may see hydrofoils operating between Portland and Boston or Portland and New York. This would give the State of Maine, I believe, a great basis for future development of this type of economy. This is why I signed the Ought to Pass Report and why I think this is a bill for the future of the State of Maine.

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

Mr. BERRY: Mr. President, I wonder if I might ask the Senator from Somerset, Senator Cianchette, if he cares to add any information or comment to that which has been so ably presented by Senator Greeley and Senator Shute?

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

Mr. CIANCHETTE: Mr. President, I would be glad to try to add some other information to this explanation. I can think of a couple of things that haven't been said. One is that we have been told on conservative estimates of a \$300 million investment. Other people think, if this whole thing does go through, that it might end up with up to a \$500 million investment in the State of Maine. But at the \$300 million figure, it would mean approximately \$6 million in taxes to either towns, cities, or the State of Maine. I understand that about 3½ million dollars would go to the Equal Education Fund out of that development.

Another area you might be interested in is that during the redraft of this bill many ideas were brought up. This bill clearly states that any development taking place under this legislation will meet all of the environmental laws of the State of Maine. This bill does not give the Port Authority the right to develop an oil offloading site in any other spot other than on land that they own as of February, 1974. This bill is designed so that Portland Harbor and the property that the State of Maine owns may be developed.

I am not sure that the revenue bond idea was explained completely, and I am not sure I can explain it completely, but my understanding is that the reason the state is asked to participate in financing this possible facility is, one, of course revenue bonds are tax free from the bondholders. These revenue bonds will not pledge the faith or the credit of the State of Maine in any way, shape or manner. I understand there are three basic types of bonds: the first one is a general revenue bond that does pledge the faith and credit of the state; another they call moral obligation bonds, and these are straight revenue bonds. And in the event that this investment went sour, the only way the state would be held responsible for paying any of these debts would be through further action from the legislature. I understand that the only way Maine would be responsible would be through further action by the Maine Legislature. Now, of course, with this understanding, the bonds are not going to sell in the first place unless they are well financed.

We have done financial checks on the four so-called partners in this arrangement, and two of them are wholly owned subsidiaries of other companies that in themselves perhaps don't have the financial backing to support such a project. However, it is obvious that before these bonds will sell, they will need the backing of Illinois Gas and the backing of Burma Oil. I think this is all academic because we are only talking about enabling legislation, and if they don't put up a financial package sound enough to thoroughly back this project, then the bonds won't sell and there is no development. Keep in mind that this is enabling legislation only.

Other questions have been asked about how come all of these things have happened and here we are with a bill aimed at a Gibbs refinery set-up in the State of Maine. Well, I think it is a case of true economic development. People have worked at this, they have put the pieces together, put their thoughts down on paper and said this is generally what we are talking about, and if we can get enabling legislation that will allow revenue bonds, then the partners, so-called, will pay off these bonds, I

understand, in a 20 year time frame, and at the end of that 20 years the State of Maine will own free and clear, at today's figures, a \$10 million dry cargo pier and a several million dollar finger pier for an oil offloading site. This will become the property of the State of Maine.

This whole project, the whole of the revenue bonds, will be paid by a lease agreement with the so-called partners. As I understand it, all of the bills, the maintenance of the dredging in the harbor and the maintenance of the oil finger pier, so-called, will all be taken care of in the lease arrangement with the partners and the Department of Transportation or the Maine Port Authority.

Those are the points that I think of right now. If there are other questions, I am sure that Senator Greeley, Senator Shute, or myself would be pleased to try to answer them.

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

Mr. KATZ: Mr. President and Members of the Senate: I have been hearing a very lucid explanation and I am very grateful because I share your feelings that this is an important piece of legislation. Let me ask a couple of questions which are perplexing to me.

When Maine Yankee was established, Maine got a very specific, demonstrable benefit from the product of Maine Yankee. To what extent will Maine consumers have a direct benefit in the event a refinery is established? Is there going to be any specific benefit that will indicate the products of the refinery will flow to Maine people on any kind of a priority basis?

Second, I am unclear in my mind as to what extent this is enabling legislation because I have a feeling that those who have explained it have gone far beyond the bill and looked down the road as the kind of thing which might happen after the project gets going. Up to what point is this enabling legislation, and at what point does the Maine Legislature then come in to make some firm decision? Does the Maine Legislature have any voice in the establishment of any subsequent lease, for example?

The PRESIDENT: The Chair

recognizes the Senator from Somerset, Senator Cianchette.

Mr. CIANCHETTE: Mr. President, I will try to answer those two questions. As to the first one, I don't know of anything in writing now that says Maine will get preferential treatment. We have been told in the Committee that they would anticipate writing this in a firm agreement.

The enabling legislation is just that, it enables the Maine Port Authority to operate very much the same as the Maine Turnpike Authority operates. The Maine Turnpike's authority, I believe, was given by the legislature and it was for a specific purpose, going from Point A to Point B. This was done. This legislation allows the Maine Port Authority to develop an oil offloading site in Portland Harbor only. Under this legislation, the Maine Port Authority would be allowed to issue revenue bonds in other areas of the state without pledging any of the faith or credit of the state. They have no authority under this legislation to pledge the faith or the credit of the State of Maine, as I understand it, in any way other than straight revenue bonds.

In that respect, that is the extent of the legislation. It allows them to operate, it allows them to make contracts, such as the Maine Turnpike Authority was allowed to do. They will be operating under the Department of Transportation, or the Commissioner of Transportation, letting contracts much the same as the Highway Department. I hope that answers the Senator's questions.

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

Mr. KATZ: Mr. President, the basic question that I would like to propose and restate is: those of us who have been here a few sessions know that the question of oil has been very perplexing and controversial. It now looks like there is a potential for an oil refinery in the Sanford area. Where in this legislation is there a potential to tell to the people of the State of Maine that when this refinery comes there will be some contractual benefits to the people in Maine, as opposed to the general benefit

of New England and the rest of the country? If it is not in this bill, at what stage of the game or at what contractual level can such guarantees be given to the people?

The PRESIDENT: The Senator from Kennebec, Senator Katz, has posed another inquiry through the Chair which any Senator may answer if he wishes.

The Chair recognizes the Senator from Somerset, Senator Cianchette.

Mr. CIANCHETTE: Mr. President, I am not sure that I can answer that question exactly much better than I did before. Of course, the figure of 6 to 8 million dollars a year in taxes, I would think, would have to be considered as quite a benefit to the State of Maine in itself. Now, if you are talking about the refined product itself, as I said, I don't believe there is anything written yet. The Governor has told me, the commissioner has told me, and Dave Stevens has told me that they fully intend that Maine people will be getting preference of product coming from this refinery. Again, I don't think it is written down anywhere.

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

Mr. BERRY: Mr. President and Members of the Senate: I want to thank Senator Greeley, Senator Shute, and Senator Cianchette for their information. There are some points, however, that they did not cover which I feel would be of interest to the members of the body.

My interest in the Gibbs situation probably started last fall when I first read about the proposal in the paper that there was going to be a refinery planned at Sanford. Fully realizing that the Governor's Task Force specified that Portland would be the best petroleum port and the designated petroleum port on the coast, I think probably for a moment my interest was allayed because this obviously fitted together. Since that time, however, my interest has been increasingly aroused by a succession of events which seem to, as has been indicated, have fallen into place. And as time has gone by, the way that these events have fallen into place and followed each other with precision

and harmony, and apparently no concern or comment and, in some cases, with no publicity, I finally came to the point that I have, as you will see when I am through, devoted considerable time and attention to the matter. My work has not been finished. The time is here, however, to give to the members of the Senate the information that I have. I will not, I am sure, duplicate any of the information that has been given to you by the three Senators on the Transportation Committee.

I might say that I am not concerned with the ecological problems in any way, shape or manner. I am concerned with the people of the state. I am concerned with — let's put it this way: are they getting a fair shake and do we know it. In addition to the references which I shall give you, I am in possession of the facts and the documents to back up everything I say.

I am not going too far back. I am really going back to October 9th of last year. If anybody has got any spare time and if anybody wants to unearth some interesting facts, I couldn't more strongly recommend to your efforts than to delve into this general situation prior to October 9th. For the moment I have absolutely nothing to do with that; my comments start on October 9th.

On October 9th there was an organizational meeting of the new Maine Port Authority which resulted from the restructuring of state government done by this legislature. Ex-officio members were present and public members were present, and for the very first time the Maine Port Authority met in formal meeting. At that meeting, the agreement which is on your desks right now was approved. I don't want you to spend too much time looking at the agreement now because you might lose some words of wisdom I am going to utter, but I might draw your attention as we go along to one or two points in the agreement, and I felt it very important to have this in front of you.

I consider this agreement the nub of the problem, the nub of the whole matter. We will come back to the agreement, but that is how it came into existence. It was signed shortly thereafter, on October 18th, by the

Chairman of the Board of Directors of the Maine Port Authority, Dave Stevens, and signed on behalf of the Department of Transportation by the Commissioner, Dave Stevens. And before leaving the agreement for a moment, I would just like to read the first two sentences to you to show you how significant this action was. It says this: "This Memorandum is made this 18th day of October, 1973, by and among the State of Maine", and Mr. Stevens, by affixing his signature in two places to this document, is acting for the State of Maine. Knowing Dave, I don't think that would faze him at all. Not to be confused, on November 8th an exactly similar document was executed and Burma Oil, Burma Tankers, Ltd. was added. I am devoting my attention, Mr. President and Members of the Senate, to this memorandum before you because this is the document the Authority acted upon at its very first meeting.

Now, to continue, at the end of the year the old officers were changed because Dave Stevens retired. His place was taken by Roger Maller, who, as we know, was Dave's former very effective assistant. And I echo very strongly the words of praise which have been heaped on both their heads. Dave was immediately hired as a consultant to the Port Authority under perfectly legal arrangements. His salary and expenses are mentioned in the minutes of the meeting as \$40,000 for two years. Where does the \$40,000 come from? The \$40,000 represents part of \$80,000 that was appropriated by the New England Regional Commission for the State of Maine, and the entire \$80,000 is committed to this project right here.

As an aside, I might say that Senator Katz's concern about the ability or the inability of the legislature to ratify or confirm documents is quite interesting, because here is \$80,000 poured into a project the legislature had nothing to do with. I might say additionally, as an aside, that the Legislative Council had nothing to do with it either, and hasn't had until this day. As a third aside, this document that is on your desks until Friday had never passed through the doors of the Attorney General's Department, nor has any other document connected with this

proposal passed through the doors of the Attorney General's Department. In no way, shape or manner have any of these documents, contracts, leases, agreements been approved by anybody representing the interests of the citizens of the State of Maine except, by a conceivable stretch of the imagination, Asa Richardson, house counsel for the Transportation Department, who technically is an Assistant Attorney General. That doesn't gainsay one thing I have said. None of these things have been reviewed by the Attorney General. Friday I deposited on Jon Lund's desk the package. The results certainly are going to take a lot longer than this session to find out.

O.K., so we come into the beginning of 1974. We have a new set-up now. Dave Stevens, who signed the documents on behalf of the State of Maine, is now the consultant for the Authority. His office is right down here in the Good Roads Association Building. And they came up with L.D. 2295. Well, to make a long story short, L.D. 2295 had eleven changes in it and it came out as L.D. 2564.

Now, I don't want you to misunderstand this next statement of mine, and I don't think you will. This matter has never been reviewed by any legislative committee except the Transportation Committee. I would say in all honesty and candor that the Transportation Committee is not disassociated in the public mind from the Transportation Department. And I think when I get through explaining this, in I hope not too long detail to you, you will agree that perhaps this instrument that is before you now and all related instruments perhaps might well have gone through the Judiciary Committee, perhaps might well have gone through the State Government Committee.

What are the points of concern on our part here? I think one thing we can keep in our minds, just one thing, if anybody ever asks you, and that is the non-competitive nature of the contract with Gibbs. Now, we get all exercised here about public printing, and we get all exercised about conflicts of interest, we get all exercised about competitive bidding, like a \$150 job has got to go out to bid or there is some nefarious scheme

here afoot. Well, the figures I have seen were not \$300 million. They vary from \$340 million to \$600 million. We are not talking peanuts in this whole proposal. So when we have a non-competitive deal here, when the events that I have described to you and will still continue to describe to you have gone flowing along like a nice viscous flow of oil from a barrel, I think that the non-competitive nature of the Gibbs contract is a *sine qua non*, the one thing you can hang your hat on in this whole proposal.

It may be said that these are the only people that came down the road. It may be said that we need economic development in the State of Maine. Who has got the God-given intelligence to tell us that this is the best deal that the State of Maine can get? And that is the problem.

If you would refer on the bottom of Page 3 to Item 8, I would ask any of the attorneys in the chambers if they would approve, representing the parties of the first part, being privy to a contract that permits the parties of the second part to get out from under whenever they want to? I will read it, in case you can't find your own copy. "It is understood that at some time the Second Parties" — this is Gibbs and Associates — "hereto may form a successor organization to carry out the objectives of this memorandum."

Now, it is interesting to know — and I would be delighted to be disputed on this point — it is interesting to know that on that famous day in October, October 9th, to the best of my knowledge, no financial information of any kind was available concerning the parties of the second part. Put that in your pipe and smoke it.

We have executed a contract by the State of Maine. Who did we execute it with? I would be delighted to read you right from here that Ni-Gas is a subsidiary of Northern Illinois Gas. I shall also be delighted to read to you from a credit report that Northern Illinois Gas directly, specifically denies any responsibility, agreement, or anything else with Ni-Gas Supply. At this stage of the game, Mr. President and Members of the Senate, Burma Tankers wasn't in the picture. I do not quarrel with Burma Tankers' financial ability,

but they were not in the picture when this agreement was executed.

Another point I would like to emphasize to you is Item 7, just above it. Now, this is part of the things falling in place so smoothly. Just read it. That may be legalese, but I can tell you just what it says. It says that the State of Maine is going to get the permit for this project. Would somebody tell me how it is possible for the Maine Port Authority — and as we said in the first line, it is the State of Maine — in applying to the D.E.P. or the Corps of Engineers, or any other authority, and this is to whom they have to apply — the Port Authority applies to everybody for the permits — how can the D.E.P. turn them down? How can they dispassionately judge the permits? They can't. Why doesn't Gibbs get the permits?

Now, let's talk about the bonds. The bonds we are talking about are in exactly the same boat as the M.I.B.A. bonds that we made good on in the sugar industry, and don't let anybody kid you. This is a fact. It was the legislature that made good on the sugar industry's bonds. There was not enough money in the insurance fund to pay it. Senator Sewall and his committee and the legislature arranged to pay off the millions of dollars on the sugar industry bonds. An overriding question is: why in the name of all that is holy are we being asked to finance anything to do with the petroleum industry today? What is the reasoning? Don't they have any money? Don't they have any profits? Don't they have any assets? Why is Onassis going into New Hampshire spending a million dollars to get his foot in the door? You don't see New Hampshire running and putting out \$20 million.

Back to the bonds specifically, the bonds are what are called moral obligation bonds. Just by chance, the State Treasurer went to New York a week or so ago, I think it was relative to the Maine Housing Authority Bonds, and he sent a memorandum that was pretty widely circulated to a member of the House dealing with what he found out about the Maine Housing Authority bonds. I am going to read you one sentence from it. "They", the bonding people in New York, "they did question

us about 'moral' obligation bond issues to other agencies. Since then there has been additional input to us from there.' And I can assure you that if ever \$20 million worth of Maine Port Authority bonds were sold, that the entire credit of the general obligation bonds of the state would be affected, and particularly the bonds of other agencies like the Maine Bond Banking Authority.

Now, the actual arrangement here is that the Authority issues \$20 million worth of bonds, turns the proceeds over to Gibbs, Gibbs builds a dock for \$10 million and gives it back to the state, and with the rest of the money they build their own petroleum unloading facility with. Then Gibbs contracts with the state, guarantees the lease, and then the money is paid off over 20 years from Gibbs and Associates. Now, keep in mind my little remark about the third party. If for any reason the oil doesn't come in from across the ocean, or if there isn't oil out in Georges Banks, or if for any reason we can't get off-shore oil, Gibbs forms a third party and off they go and we are sitting here.

It seems to me that there are certain things that are self obvious here. I think, first, there is a vital need for competition on every single aspect of this proposal. If I were Dave Stevens, I would have started out something like this: I would say where we want to develop the port of Portland with a refinery in the picture, let's solicit invitations from developers or architects or engineers and see what concepts we can have, the number of piers, draft of vessels, cargo, everything you do to develop a port. Let's get competing ideas, just like some members of this body are sitting down now getting competing ideas for the construction of our parking garage over here. They are listening to any number of concepts submitted by engineers and architects anxious for the state's business. That would be the first thing that perhaps should be done. Then the design would be drawn up, after an award on a competitive basis by the engineers and architects that would submit the best proposals. When those plans and specifications are drawn up, then the award for the contract, for the work, would be done on the same open

competitive basis. I would say that the state should have absolutely nothing to do with anything beyond a fence around its property in Portland, neither in construction, permits, nor anything else, or financing at all. It stops right there. And whoever wanted to come up there, make the arrangements with them on a contractual basis. But the state or the Port Authority should have absolutely no concern or interest or responsibility beyond its own physical property, the permits or financing or anything. I think, further, that all contracts, understandings, formal negotiations, anything at all, should have the prior open approval of the Attorney General's Office before they are executed on behalf of the State of Maine. I would strongly urge that this matter be referred to the 107th Legislature.

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

MR. CIANCHETTE: Mr. President and Members of the Senate: I have been waiting for this day, and I frankly have to say it is quite a letdown. I thought Senator Berry had something to say and, in my opinion, he said very little and has taken a long time to do it.

I would just like to touch on a few points. He talked about something dirty about this \$40,000-\$80,000, whatever the figure was, that was a grant from the New England Region Commission, which is a standard basis of granting money from these commissions or the federal, New England, or anything else. Those things don't go through the legislature, and I don't know why this one should. He keeps referring to this document as a binding legal contract. This is no more than a memorandum of intent and understanding. I assure you that had the thought developed along as far as this one has developed, without having anything in writing to show you members of the legislature that there was an intent and understanding with a certain particular proposal, that you would have no interest in this bill, it wouldn't mean anything, and you would be suspicious. This thing is in writing, and it only says it is a memorandum of intent and understanding. It is not a legal binding contract for anybody.

There is no need for it to go to the Attorney General's office. They haven't done anything, haven't raised any money, haven't spent any money; it is simply putting in writing what their thoughts were about some economic developments in the State of Maine.

Dave Stevens' office is over in the Maine Good Roads Building. Well, it may come as a surprise to Senator Berry that Dave Stevens had an office over there for, it must be ten years, when he was serving on the Maine Turnpike Authority. He is merely taking over those same old offices. Is there something dirty about that?

Competitive bidding he talks about. My God, there hasn't been anything done yet. And you may be assured, and we have been assured, the Transportation Committee, that every project that the Department has anything to do with will definitely one hundred percent be let out to competitive bidding. You may rest assured of that.

He talks about why hasn't this whole thing developed under a competitive bidding process. My God, there aren't that many people who want to come to Portland Harbor, apparently. The thing is there, the offer, I understand, is still open, and if somebody else wants to come and build a \$10 million cargo pier for the State of Maine on State of Maine property, and give it to them with no cost, there is still plenty of room down there and I am sure the State of Maine would love to have it. If you know of any company, or if you can go out and dig up some companies that would be willing to come in here and give the State of Maine a \$10 million cargo pier, I will bet the State of Maine would be happy to accept it. If they will give them a \$20 million one, that is all the better. Maybe Senator Berry could work on that.

Second parties and third parties: it sounds like there is something dirty about it. My good Lord, it is wide open, there is nothing hidden about it, that they do expect, if this thing goes through and they can pull together all the pieces, to form a corporation to operate this oil unloading facility and refinery. Is there anything dirty about that? It merely says that this is what they might intend to do, if it ever comes about, to form a

corporation to operate within the State of Maine.

We already told you about Ni-Gas that is a wholly owned subsidiary of Illinois Gas, and they have this agreement right on the Dunn and Bradstreet Report that says that one company shall not bind the other for anything. We understand that. The only thing that we can say is that if they are going to be able to sell the bonds, Illinois Gas had better put its assets up or they are going to have either no bonds or a doggone high interest rate. There is nothing dirty about that.

Permits: we have been told that the so-called partners have chipped in and are spending \$1.5 million right now developing plans and information for the DEP, Corps of Engineers, and all of the other environmental agencies that have to be gone through. We have been told that these people, not the State of Maine, that these people are spending \$1.5 million to make these proposals.

These revenue bonds are not like the MIBA bonds. MIBA bonds pledged the faith and credit of the State of Maine. These bonds do not.

Why are we going to finance the petroleum industry? Now that is quite a statement. This partners group said we would like to come to the State of Maine. They came to the Department of Transportation and said, "We understand you bought some property on the Portland Waterfront and we would like to build an oil unloading facility there. What can you do for us? I understand the Department said back to them, "We are not interested in your problems. We have got this property, we think that there is a place for a cargo pier and perhaps a free trade zone here in the Portland Harbor. That is our interest." And, as I understand it, further on, "Well, if that is what you want, maybe we can work out something that will be beneficial to both of us." And it ended up with the state issuing revenue bonds backed by their financing, not the state's financing, and the State of Maine getting about a \$20 million development given them, half of the development in the form of a cargo pier that the petroleum industry has no interest in whatsoever, but it is their part of a working arrangement. They want to

come in here and be good neighbors and they want to earn their way in here. They are not asking for anything. They are not asking to circumvent any laws. They are not asking to circumvent any taxes. How else do we get good economic development in the State of Maine, unless you have someone sit down and talk sensible plans and sensible ideas? The bill specifically states that the State of Maine shall not have anything to do with development outside of the fenceline as referred. The bill states that they will not leave the property now owned by the State of Maine with this development. It is right in the bill.

Before there are any bonds sold, before there are any contracts awarded, I understand the standard procedure is that this thing has to go through a pretty rigorous bond council and that there will be a bond indenture drawn up that will probably be about as thick as a bible with all of the contractual arrangements. And I am sure that all of those will go through the Attorney General's office and the Governor's office, and there will be no one left out who is interested to know about this, because if there were, let's face it, if there is anything sneaky, wrong, or contractually wrong about it, the bonds wouldn't sell, and that is the name of the game.

I really see no reason that this bill needs to be referred to the 107th Legislature.

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

Mr. BERRY: Mr. President and Members of the Senate: There is one additional area I feel constrained to talk about now, and that is the area of overlapping interests. There are three areas of overlapping interests which I wish to bring to your attention. I think one I have enlarged upon significantly, I think enough for everybody to understand the situation, and that is where Mr. Stevens was last fall and where he is now.

The second area of overlapping interests that I would refer to, Senator Cianchette referred to, which prompts me to mention the role of his company. My attention was drawn to this when I

received in my regular mail the Notice to Mariners put out by the Coast Guard in Boston, and on page three of their issue No. 6, dated 6 February 1974, I read the following: "Maine, Gulf of Maine, Casco Bay, Portland Harbor, the Cianbro Brothers, Portland, Maine advises that test borings will be conducted from the State Pier east to 17 Foot Shoal, lighted buoy 3. Mr. Mallar was asked to supply some information on this particular project. This is the report that I received: "On the morning of March 11, I conferred with Commissioner Roger Mallar of the Maine Department of Transportation about activities in relation to the Maine Port Authority in Portland Harbor. Commissioner Mallar informed me that pursuant to an agreement made last fall between the Maine Port Authority and Gibbs Oil Company, Burma Oil Tankers Limited, Ni-Gas Supply Company, who are also known as the partners, had employed the engineering company of Van Houton Association Inc., to make preliminary engineering studies in Portland Harbor. As a result of this, Van Houton Associates last month employed Cianbro Corporation of Pittsfield, Maine to provide floating equipment and personnel to do the work in Portland Harbor. Preliminary engineering work consists of test floorings and general analysis of the area to be utilized in conjunction with the proposed construction of the oil terminal cargo pier and the dredging of the harbor. Under the terms of the agreement last fall, the partners provide the funding of the preliminary design, and then Maine Port Authority will underwrite the cost of the final stage and construction of the port facilities."

I don't make any rash statements here of conflict of interest or anything. I am talking of overlapping areas of interest, and that is just what I mean. That is going to lead to one more conclusion I would recommend, which I will tell you after I discuss the third area of overlapping interests.

Remember the new Maine Port Authority who met on October 9th, with Mr. Scott Hutchinson, Executive Vice President Canal National Bank. Mr. Hutchinson's bank owns or controls or

has a major interest in the former Pocahontas Wharf down there, not too far removed from the area we are talking about. Mr. Hutchinson has been an active, intelligent participant in the activities of the Maine Port Authority. All is recorded in the minutes.

I would like to read to you from the L. D. before you a very, very pertinent point, entitled Conflict of Interest: "No member, officer or employee of the Maine Port Authority shall acquire any interest, direct or indirect, in any contract or proposed contract of said Authority nor shall any member, officer, or employee participate in any decision on any contract entered into by the Authority if he has any interest, direct or indirect, in any firm, partnership, corporation or association which will be party to such contract or financially involved in any transaction with the Authority, except this prohibition shall not be applicable to the acquisition of any interest in notes or bonds of the Authority issued in connection with any contracts or agreements of the Authority or to the execution of agreements by banking institutions for the deposit or handling of Authority funds in connection with any contract or to act as Trustee under any Trust Indenture, or to utility services, the rates for which are fixed or controlled by a Governmental Agency."

So I would strongly recommend that in the actions of the Maine Port Authority and in any review or suggestions for their proper functioning that we say that all construction, testing, and financial work or interest of any kind, directly or indirectly using MPA funds, be awarded on a competitive basis. I would specifically think that Mr. Hutchinson should disassociate himself from any discussion or activities of the Maine Port Authority dealing with Portland Harbor.

The Attorney General, relative to the bonds has issued an opinion, and he testified before the Maine Housing Authority Bonds, that the state will ultimately make good on moral obligation bonds. I don't disavow anything Senator Cianchette has said, but I do reiterate this is the Attorney General's opinion, and it will happen. We have seen it happen once and it will

happen again. The state is behind the \$20 million worth of bonds.

Mr. President, I am going to move the indefinite postponement of this.

The PRESIDENT: The Senator from Cumberland, Senator Berry, now moves that Bill, "An Act Relating to the Powers of Maine Port Authority", be indefinitely postponed.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. Clifford of Androscoggin then moved that the Bill be tabled and Tomorrow Assigned, pending the motion by Senator Berry of Cumberland that the Bill be indefinitely Postponed.

On motion by Mr. Speers of Kennebec, a division was had. Seven Senators having voted in the affirmative, and 16 Senators having voted in the negative, the motion did not prevail.

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

Mr. CIANCHETTE: Mr. President, I would just like to thank Senator Berry from Cumberland for explaining that I have no conflict of interest in this bill. I guess he explained but, if he didn't, I would just like to have it clear here that I certainly feel I have no conflict of interest in this bill, according to our legislative ethics.

The item he referred to about the Cianbro Corporation is true. The engineers, the Van Houton people, I guess it is, called and said they needed a spud barge and they needed to take some borings right away quickly. Well, it seems that the Cianbro Corporation owns the only spud barge in Portland Harbor. There is one other in Maine, up in Rockland somewhere, I think, owned by Prock Marine. The next closest ones that we know about are in Boston Harbor. They brought their own engineers and their own specialized boring equipment. They simply rented a barge and a few people to operate that barge. I guess it would be very much the same as renting a helicopter to go out and check some things there that they did in the Portland area. This is a simple straight rental job and they paid the same fees that anyone else would pay. There is nothing funny about it at all,

and certainly there is nothing wrong with that.

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

Thereupon, on motion by Mr. Katz of Kennebec, tabled until later in today's session, pending the motion by Mr. Berry of Cumberland that the bill be Indefinitely Postponed.

On motion by Mr. Berry of Cumberland,

Recessed until 2:30 o'clock this afternoon.

After Recess

Called to order by the President.

Joint Order

Out of order and under suspension of the rules, on motion by Mr. Katz, of Kennebec:

ORDERED, the House concurring, that the Maine Port Authority is directed to include in any contract, document or legal commitment required for the construction or operation of oil refinery facilities, a provision requiring the distribution and sale of its products which recognizes the need of Maine people for a guaranteed share of the refinery's production. (S. P. 961)

Which was Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. KATZ: Mr. President and Members of the Senate: I am aware of the fact that this is a joint order and does not hold the force of a law, but I am equally aware of the fact that it is addressed to the Maine Port Authority, which I am confident is responsive to the direction of the Maine Legislature. What it does, in effect, is to say that if we are to have an oil refinery that there must be a trade-off. There must be a trade-off to Maine people in the form of a direct result from the benefits of the production of the oil refinery. This is to be found nowhere within the framework of the legislation which we will be debating a little later today, but I am personally satisfied that, if this joint order passes, that when instruments are effected which create the operation of an oil refinery, at such time as this happens,

that the needs and the wants of Maine people will be identified and respected.

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

Mr. BRENNAN: Mr. President and Members of the Senate; I appreciate the import of the order and I appreciate what the good Senator from Kennebec is trying to get at, but there may be some serious problems in regard to any assurance of a certain quantity of the refinery's product. Since we are on allocation, it seems to me that the federal government has pretty much preempted the field, and I don't think the state could assure any certain percentage of the oil going to the State of Maine, particularly as long as allocation is taking place. In my judgment, the federal government has preempted this area and is the sole one that would make the decisions. So I would hope someone would just table this order temporarily until we take a further look.

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

Mr. KATZ: Mr. President and Members of the Senate: I would reassure the fears of the Senator from Cumberland, Senator Brennan. I think all this order says is in no way does this legislature support the establishment of an oil refinery which is going to send by pipeline all its products up to the neighboring Canadian provinces or by pipeline back to vessels to carry it to the Port of New York. It is a very broad order. It is an order that can certainly live within the constraints of any kind of a system, and all it does is express to the Port Authority that a refinery that doesn't benefit the State of Maine is a "no no" as far as this legislature is concerned.

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

Mr. SPEERS: Mr. President and Members of the Senate: I think that I would share the concern of the good Senator from Cumberland, Senator Brennan on this. I think if all the order said was that the consensus of the legislature or the desire of the legislature is that some contracts do

include that kind of a provision, I think there would be no problem with it whatever, but it does not say that it is just simply the desire of the legislature. It states very specifically that the Maine Port Authority is directed to include such a provision.

Now, the good Senator from Kennebec, Senator Katz, mentioned that this does not have the force of law, but I would be hesitant to pass an order which while passing it we are saying that we are not really serious about passing it. In the first place, there are two parties to a contract, and the other party to this contract may or may not really be able to include such a provision in that contract. There is such a thing as the commerce clause under the United States Constitution. An oil refinery is of course, involved very much in interstate commerce, and I am simply wondering whether or not there can be preferences delegated to a particular state. How would it be, for example, if the State of Texas decided that all its oil was going to be preempted for use of Texans, and whatever was left over could go to other states, or the State of New Jersey, the same in an oil refinery located in New Jersey?

I certainly would have no objection whatever to this order if it included language to the effect that it is the sense of the legislature that, if possible, the Maine Port Authority attempt to negotiate an agreement with whomever it contracts with to have the oil as much as possible be used by the people of the State of Maine. I certainly have no objection whatever to that, but I think this order is a good deal stronger than that in that it directs the Port Authority to include that kind of language in any contract. I would hope that perhaps someone could table this so that it could be amended to reflect the sense of the legislature but not have the force and effect of law.

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

Mr. BERRY: Mr. President and Members of the Senate: I too would oppose the order. I think it is unconstitutional. It is an interference in interstate commerce. The output of the

refinery is going to probably go primarily by pipeline across New Hampshire and Vermont into New York to Oswego and tie into a national petroleum distribution center there, and this takes the product of the refinery across state lines. I think, as meritorious as the objectives may be, the order is of no value.

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

Mr. KATZ: Mr. President and Members of the Senate: It is of some value if my vote is counted, because there is no way I am going to vote for any legislation here that creates an oil refinery without some assurance that Maine people are going to get a benefit. Now, if that is some kind of value, you will support it.

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

Mr. RICHARDSON: Mr. President, the order, I think, if it were to have the force of law, would require a public hearing, as I understood the Chair's ruling of, I believe, the day before yesterday. Frankly, I think that a literal reading of the order would reflect legislative intent. We are asking the Maine Port Authority to include within the contract a provision requiring the distribution and sale of its product which recognizes the need of Maine people for a guaranteed share of the refinery's production. Very frankly, I don't read the order literally as requiring a guaranteed percentage proportion of the product of any refinery.

I think the Senator from Kennebec, Senator Katz, has touched what is to me a very sensitive nerve, and that is the question of why the State of Maine should accept the environmental and other risks of a refinery if it is not going to be guaranteed one barrel of domestic heating fuel or one tankful of gasoline.

I think that all the order does is express the sense of the legislature that we would hope that within all of the applicable constitutional limitations the Maine Port Authority attempt to work into its contract a legal provision for some portion of the product of a refinery finding its way to the Maine consumer. I

think that is a perfectly sensible expression of the sentiment of the legislature and I, for one, shall support it.

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

Mr. SPEERS: Mr. President, I certainly agree with the Senator from Cumberland, Senator Richardson, that I think it is a sensible expression of legislative intent. My only objection is that I feel the wording of the order perhaps goes a little bit beyond an expression of legislative intent. I certainly hope someone could table this and perhaps have an amendment to it so that it reads specifically that it is the intent of the legislature that there be such language worked into any contract.

The PRESIDENT: Is it now the pleasure of the Senate that this order receive passage? The Chair will order a division. As many Senators as are in favor that this order receive passage will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. 20 Senators having voted in the affirmative, and four Senators having voted in the negative, the Joint Order received Passage.

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

Papers from the House

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

Non-concurrent Matter

Bill, "An Act to Clarify the Power of the Commissioner of Maine Department of Transportation and the Chief of the Maine State Police." (H. P. 1857) (L. D. 2350)

In the House March 4, 1974, Passed to be Enacted.

In the Senate March 25, 1974, Indefinitely Postponed, in non-concurrence.

Comes from the House, that Body having Insisted.

On motion by Mr. Berry of Cumberland, the Senate voted to Recede and Concur.

On further motion by Mr. Berry of

Cumberland, tabled pending Enactment.

Non-concurrent Matter

Joint Order (S. P. 955) relative to Legislative Council conducting study of Rules and Regulations of Joint Standing Committees.

In the Senate March 25, 1974, Read and Passed.

Comes from the House, Indefinitely Postponed, in non-concurrence.

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

Mr. BERRY: Mr. President, the Legislative Council has a study going along, which is pretty well advanced, developing rules and regulations and standard procedures for the joint standing committees. This was unknown to me, quite frankly, when the order went through the last time. So the work that is visualized by this order is being done. Consequently, I move the Senate recede and concur.

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

The motion prevailed.

Joint Order

WHEREAS, Marie W. Wood of Castine served as a State Representative in the 105th Legislature; and

WHEREAS, Mrs. Wood served her community as selectman for 7 years and more recently as town manager for one year; and

WHEREAS, Mrs. Wood for many years has been very active in civic, church and political organizations giving unselfishly of her time and energy; and

WHEREAS, Mrs. Wood has announced her intentions to retire from active public service; and

WHEREAS, on Sunday, March 24, 1974, the Town of Castine recognized those accomplishments by holding a reception in her honor; now, therefore, be it

ORDERED, the Senate concurring, that Members of the House and Senate of the 106th Legislature pause in the deliberations during this special session

to congratulate Marie W. Wood for the years of commitment to her community and state and to offer her our best wishes in retirement; and be it further

ORDERED, that a suitable copy of this Joint Order be forwarded to Marie W. Wood as a token of our appreciation for her years of devoted public service. (H. P. 2082)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

Joint Resolution STATE OF MAINE

In the Year of Our Lord One Thousand
Nine Hundred and Seventy-Four

IN MEMORIAM

WHEREAS, the Legislature has learned of the sudden death, on March 23, 1974, of former Representative Melvin Lane of Waterville; and

WHEREAS, he was an ambitious worker who, in addition to the active pursuits of the meat business, served as a Member of the 96th, 98th, 99th, 100th, and 102nd Maine Legislatures; and

WHEREAS, the passing of this civil servant of long standing is a great loss not only to his family and many friends but also to his colleagues in the Legislature; now, therefore, be it

RESOLVED: That We, the Members of the 106th Legislature, now assembled in this first special session, pause to extend our deepest sympathy to the family and friends of the Honorable Melvin Lane and our deepest understanding to all others who share in the loss; and be it further

RESOLVED: That a suitable copy of this Resolution be prepared and presented to his wife and family in honor of his memory. (H. P. 2083)

Comes from the House, Read and Adopted.

Which was Read and Adopted in concurrence.

Communications
State of Maine
House of Representatives
Augusta, Maine 04330

March 26, 1974

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

Today the House voted to Adhere to its action on the following matter:

S. P. 938, L. D. 2576, An Act
Establishing the Maine Public Transit
Fund Act

whereby on March 21 it indefinitely postponed the bill and accompanying papers.

Respectfully,

Signed:

E. LOUISE LINCOLN
Clerk

House of Representatives

Which was Read and Ordered Placed
on File.

Communications

State of Maine
One Hundred and Sixth
Legislature
Committee on Judiciary

March 25, 1974

Hon. Kenneth P. MacLeod
President of the Senate
106th Legislature
State House
Augusta, Maine

Dear Senator MacLeod:

I am pleased to report that the Joint Standing Committee on Judiciary of the 106th Legislature, Special Session, has completed its assigned duties, and the following is a resume of the work placed before it, indicating the action taken on these matters.

Total bills received	39
Referred from Committees	0
Recommitted	3
Unanimous reports	26
Divided reports	16

	Unanimous	Divided
Leave to withdraw	4	
Ought to Pass	6	6
Ought to Pass, amended	3	8
Ought to Pass, new drafts	9	6
Ought Not to Pass	3	14
Refer to other Committees	1	
Number of amendments prepared		11
Number of new drafts prepared		15
Public hearings were held on		11
Legislative days, and Executive sessions, 19.		

Signed:

Sincerely,
WAKINE G. TANOUS
Chairman
Committee on Judiciary

Which was Read.

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

Mr. TANOUS: Mr. President and Members of the Senate: I would just like to make an observation. As you noticed in my communication to the President of the Senate, the Judiciary Committee handled a total of 39 bills at the special session, requiring three months of the session. At the regular session last year we handled approximately 280 bills in six months. Thank you.

The PRESIDENT: Is it now the pleasure of the Senate that this communication be placed on file?

Thereupon, the Communication was Ordered Placed on File.

The President laid before the Senate the following tabled matter:

Bill, "An Act Relating to the Powers of Maine Port Authority. (S. P. 931) (L. D. 2564)

Tabled — March 26, 1974 by Senator Katz of Kennebec.

Pending — Motion of Senate Berry of Cumberland to Indefinitely Postpone.

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

Mr. ROBERTS: Ladies and Gentlemen of the Senate: As long as Sanford, as you know, is the location which has been selected for this refinery, should it be approved and built, I would like to convey to the Senate the feelings of the people in the community where the site has been selected. They have had several matters come before the local planning board and also through the selectmen and through the town meeting. We have a representative town meeting form of government in Sanford. And all of those have been very favorable to the building, if all the approvals are supplied and the various problems worked out, the eventual building of a refinery in Sanford. I would be less than fair to you if I didn't say there was some opposition to it, but so

far the opposition is by relatively few, and by a large majority the community favors the building of this refinery.

Just to review for a moment a step back of me, if you will, ten years ago this year in the month of May the Town of Sanford lost its textile operation, and with it lost 3,500 jobs in one fell swoop and several million dollars in taxable property. The company that bought the mill spent more than six months taking out probably the most modern textile equipment, looms and equipment of that nature, in the State of Maine, took them all south, and not only did we lose the value of the buildings, because the buildings for the most part are still empty, but we also lost a lot of valuable equipment as well as some 3,500 jobs. Now, in the ten years that have passed, the Town of Sanford dropped in population from about 16,000 down to 12,000, and it has now struggled back to the point where it is nearly up to 16,000 today. The jobs in the town that were lost, the 3,500 jobs, are back to a point where roughly about 2,600 of the 3,500 jobs have been replaced. The rest of the population that has come into the town within the last two to three years really is due to the fact that the Town of Sanford, and all of York county, for that matter, is close enough to Boston and the urban areas so that we are now getting people moving into that area to live, and it has pretty much become a bedroom town.

As a result, my own taxes, for instance, are about three times what a comparable house to mine would be in the adjoining town of Kennebunk. I had a friend of mine who had a house very similar to mine and sold it for a price, and he bought a house in Kennebunk for the same price that he got for the Sanford property. His tax in Kennebunk was slightly over \$400, and his tax in Sanford was \$1,200. Now, without a real large tax base, the Town of Sanford is having a hard time. It has excellent schools. It built a new \$2½ million high school recently, and the people realize that.

The site of this refinery is some three miles from the center of town and about a mile from any highway, or nearly half a mile, and in that location, with

environmental supervision and environmental protection, which I am sure it would have, the large majority of the people in Sanford favor this plan and this proposed construction of a refinery.

Not too long ago, I think two weeks ago, or three weeks ago at the most, there was a joint meeting in the Town of Sanford of the Rotary, the Kiwanis, the Lions Clubs, and various other members of the business merchants of the town, at which the refinery was discussed. In that connection, I would like to mention one or two things which were said there at that meeting. Now, that meeting didn't put anything in writing and it isn't an iron-bound agreement, but contrary to some meetings, at least that meeting was taped. It was taped on purpose and taped with the permission of the speakers from the proposed refinery organization so that at a later time, if these things came up, they would have that as a record to refer to. One of the things was that the State of Maine would receive an allocation of part of the product and that the oil would not all be going out of the state.

One of the things that had been said earlier, and I think it was perhaps referred to in a letter that appeared on your desks here not too long ago from E. Spencer Miller of the Maine Central Railroad, was that there will be a large number of trucks coming out of Sanford, tanker trucks carrying oil from the refinery in Sanford, and I think Mr. Miller pointed out in his letter that the pollution from these trucks on the highway would be an item, as well as the wear and tear on the highways. Well, originally at one point there was thought that there might be as many as 700 or 800 of these tanker trucks going out of Sanford in a period of 24 hours. They are now working on another approach to this problem which seems much more sensible, and that is that, in addition to the pipeline, there is a railroad spur — it doesn't belong to the Maine Central Railroad but it does belong to the Boston and Maine — and that railroad spur now goes to a quarry which is some two miles away from this refinery, and the proposal is to extend that spur line two miles. It is mostly flat, sandy soil and shouldn't present too many problems, so

they will be able to carry out some of that petroleum by tank car over the railroad lines.

It is true that the oil that goes up into Maine to Bangor, Augusta, and points north will be trucked over the highways, as has already been mentioned, and I am sure you are familiar, but the majority of the production of the plant will go by pipeline into western Massachusetts. Thank you.

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

MR. BERRY: Mr. President and Members of the Senate; I certainly enjoyed the comments of my good friend, Senator Roberts of York, however, he didn't address himself to a single objection I had to the bill. I would request a roll call on the motion.

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

Obviously more than one fifth having arisen, a roll call is ordered. The pending motion before the Senate is the motion of the Senator from Cumberland, Senator Berry, that Bill, An Act Relating to the Powers of Maine Port Authority, be indefinitely postponed. A "Yes" vote will be in favor of indefinite postponement; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Anderson, Berry, Henley, Wyman.

NAYS: Senators Brennan, Cianchette, Clifford, Conley, Cox, Cummings, Graffam, Greeley, Haskell, Hichens, Huber, Katz, Kelley, Marcotte, Minkowsky, Morrell, Richardson, Roberts, Shute, Speers, Tanous, MacLeod.

ABSENT: Senators Cyr, Danton, Fortier, Joly, Olfene, Schulten, Sewall.

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

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

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

Mr. CONLEY: Mr. President, having voted on the prevailing side, I now move that we reconsider our action.

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

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

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

JOINT ORDER—Relative to Joint Rule 17A (H. P. 2078)

Tabled—March 25, 1974 by Senator Berry of Cumberland.

Pending—Passage.

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

Mr. CONLEY: Mr. President, the only question I have relative to this order is that, as I recall reading it, it stated that any bill on which it was asked leave to withdraw as covered by other legislation was, in effect, if the other legislation would be considered. To me, it poses a problem because if under Rule 17A anything that is rejected by the legislature is totally rejected, then how can it be covered by other legislation?

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

Mr. KATZ: Mr. President, I rise to oppose the motion to accept this rule change. What it does is that it adds to 17A not only unanimous ought not to pass committee reports, but also reports which are leave to withdraw, and I think that this takes away the discretion of the legislature to too great a degree. I call to your attention that the only reason this state for the first time in its history is

protected against wiretapping is because in the regular session we substituted the bill for the report, and the report was "Leave to Withdraw". Besides, there are many occasions I think on which sponsors play games with their bills, and once a sponsor presents a piece of legislation to the committee and asks leave to withdraw, very frequently out of courtesy they give it to him, and I feel that to a greater extent than that it is the property of the legislature. Consequently, I would oppose the adoption of this rule, and I would ask for a division.

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

Mr. CONLEY: Mr. President, I concur with the good Senator from Kennebec, Senator Katz, and I move the order be indefinitely postponed.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that Joint Order, House Paper 2078, be indefinitely postponed in non-concurrence. The Chair will order a division. As many Senators as are in favor of the motion to indefinitely postpone this Joint Order will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. 24 Senators having voted in the affirmative, and two Senators having voted in the negative, the Joint Order was Indefinitely Postponed in non-concurrence.

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

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

Bill, "An Act Relating to the Dredging, Filling or Otherwise Altering of River, Streams and Brooks." (H. P. 2053) (L. D. 2588)

Tabled — March 25, 1974 by Senator Berry of Cumberland.

Pending — Passage to be Engrossed.

House Amendment "A" (H-773)

House Amendment "B" (H-775)

Senate Amendment "A" (S-430)

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

Mr. TANOUS: Mr. President and Members of the Senate: There was a question asked yesterday on this particular bill by Senator Anderson of Hancock, and there is a bill we enacted earlier, a resolve presented by Senator Shute of Franklin, which may well have a variance. This bill, in other words, may well repeal the other resolve that we passed by reference. So I feel that rather than disturb this bill at this point, probably we ought to pass it along towards enactment and, if and when it gets enacted, we could take care of this problem in the omnibus bill.

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

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

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

Senate Reports — from the Committee on Judiciary — Bill, "An Act Relating to Mandatory Sentences for Persons Convicted of Second Offense Breaking, Entering and Larceny or Burglary." (S. P. 957) (L. D. 2607) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass.

Tabled — March 26, 1974 by Senator Berry of Cumberland.

Pending — Acceptance of Either Report.

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

Mr. TANOUS: Mr. President and Members of the Senate: I would move that the Senate accept the Minority Ought to Pass Report of the Committee. As you will recall, we fully debated the concept of this particular provision earlier in the Senate when I attached an amendment to a prior bill, which was passed on that particular bill but, unfortunately, in the wisdom of the entire legislature they did not see fit to bring out another bill similar to that amendment. Thank you.

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

Mr. CLIFFORD: Mr. President, I

would oppose the motion to accept the Ought to Pass Report. I think in doing so you are taking away the discretion of the courts. The courts have the availability of pre-sentencing investigations, and you are also doing something without knowing the ability of the corrections system to handle all the persons who may be shunted into it. Certainly we have heard enough in recent years of the failings of the corrections system itself. So I hope you would continue to leave the discretion of this matter in the hands of the courts where it belongs, and I hope you would oppose the motion. Thank you, Mr. President.

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

Mr. WYMAN: Mr. President and Members of the Senate: I want to support Senator Tanous, the good Senator from Penobscot, on this.

When I go home, people say to me "Why don't you do something about it? Why don't you do something about it?" Every time I go home there has been a different house that is closed that has been cleaned. Now, we have a lot of people along the shore, at least, that come there for the summer, and they clean one house after another, these boys or whoever they are, men, that do the stealing. They take them to court, they give them a sentence and then they suspend it and let them go, and then they do it over again. We also have a good many senior citizens who are fortunate enough to go to warmer climates, and their houses too are ransacked. I don't know what the answer is, but when I go home people simply say "Why don't you do something about it?" And if the courts aren't going to do anything about it, I think it is time the legislature did.

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

Mr. KATZ: Mr. President, I just can't resist reading a few words from the preamble of the Constitution of the State of Maine. It starts out: "We the people of Maine, in order to establish justice, insure tranquility, provide for our mutual defense, promote our common welfare, and secure the blessings of liberty", and so forth.

I think we are not doing a very good job, and I think this is the basic purpose of government. I think we are not doing a very good job in protecting our homes and our families, not only against breaking and entering, but against fear, and I certainly support the motion of the Senator from Penobscot, Senator Tanous.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President and Members of the Senate: When I debated this the last time, I mentioned that this particular crime in Maine is one of the most common serious crimes that is being committed, and it is rampant. It is just unbelievable, the number of cases that we have here in the State of Maine this last year. Frankly, I don't know if it is going to help to incarcerate these individuals, but at least when they commit that second offense they will know they are going to be facing a jail term.

I know it has been mentioned that my philosophy has changed on mandatory sentences. If there is a gentleman who feels that my philosophy has changed, I would invite you to check my record relative to mandatory jail sentences on the second offense for possession of drugs and second offense sale of drugs, because I wholeheartedly supported those two concepts for mandatory sentences in both those instances.

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

Mr. KATZ: Mr. President, because of the basic nature of this bill, and because I think it is basic to the whole structure of government, I hope that all of us go on record, and I request a roll call.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Cumberland, Senator Richardson.

Mr. RICHARDSON: Mr. President, I am perhaps flying in the face of discretion. I can't help but make the observation once noted by a great philosopher that consistency really is the hobgoblin of little minds, and I am quite pleased to see what I view as a position

change by at least some of the members of this body with respect to the issue of mandatory sentences and to stiffening the penalties for a second offense.

I would like to share with you some of the frustration that my wife and I feel. It goes back to an event which occurred when the present Minority Leader of the Senate was the County Attorney for Cumberland County. My wife had taken the children down to Cumberland Center to buy groceries, and while she was away, in broad daylight, some of these friendly breakers and enterers came in and took everything that wasn't nailed down. The very good leads as to the identity of these persons were handled in the due course of the administration of justice, and I was quite appalled that nothing was done. I don't suggest that the present Senator from Portland, the distinguished Minority Leader, had anything to do with that, but it was quite a frightening experience.

Now, I believe that mandatory second offense penalties do carry a very clear message to these people who are committing crimes against properties. This is not a crime of violence arising out of a fit of anger or anything of that nature. This is a premeditated method of operation that these people are carrying out, it is a new and different way of making a living, and I think we ought to serve notice on them right now that they get one chance, that the second time around they are going to go to jail, and that is where they ought to be.

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

Mr. BRENNAN: Mr. President and Members of the Senate: In regard to the situation of my good friend, the distinguished Senator from Cumberland, in my capacity as County Attorney I merely prosecuted them, and very few of them got off when we prosecuted them. We did not arrest them. Our function didn't extend that far.

There is no question, breaking and entering is one of the most serious problems as far as crime is concerned in the State of Maine. But we are only kidding ourselves if we vote for this and think we are going to do something about

it. We are really going to achieve very little if anything. If we want to make the criminal justice system work in this state, we have to have a situation that if they break into Senator Richardson's house tonight and they are arrested, then they go to trial next week, and not next year. That is the problem. We have got to streamline the administration of justice. We are really going to achieve just about nothing with this. It will pass, it will go on the books, but it won't achieve one single thing, in my judgment.

I think we are all aware of the experiences with capital punishment, that that did not deter murder. The statistics are very, very clear. But I am sure this will be supported by an overwhelming margin and we can all leave here thinking that we have achieved something, but really it will be about nothing.

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

Mr. CONLEY: Mr. President, if we are going to pass this legislation, I think we better put an appropriation on it because Thomaston isn't big enough to hold what is there now.

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

Mr. SPEERS: Mr. President, I think the record should very clearly reflect the fact that we are not voting here today to perhaps change the method that does exist right now in most of the courts of the state. We are not deciding right here and now whether or not on a second offense the person is going to go to jail or whether or not he is going to go free. That is not really the question. The courts certainly have the power and the authority and all the statutory requirements that are needed right now to sentence someone to jail for committing the second offense of breaking and entering. So we are not creating that. We are not putting that on the books any more differently than it is already on the books. They have that power and they have that authority.

Now, what this is going to do is perhaps in a few instances where the judge, after a pre-sentencing

investigation, feels that there have been extenuating circumstances and that individual who committed an offense for a second time perhaps should not go to jail, in those very few instances, what this is going to do is require that that individual be sentenced to jail. Those are very few instances, members of this Senate. In most instances the judge has an individual before him, he knows whether it is his first, second, third offense, or whatever, and he knows that he has the power and the authority to sentence that individual to jail, more often than not at a greater jail sentence and a larger sentence because it is a second offense than he has if it is only the first offense, and by and large that judge is going to give that individual a jail sentence.

Now, we are probably just making a lot of noise here, because I feel that this probably is going to pass, but I think the record should very clearly indicate precisely what we are going to be doing. And it is going to be a very few cases that we have any effectiveness on by passing this legislation.

I would like to hear from some of the proponents of this legislation perhaps a few statistics as to the number of second offense individuals who do not end up in jail.

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

Mr. BRENNAN: Mr. President and Members of the Senate: Just very briefly, I think politically it is terribly popular to support the concept of mandatory sentencing, but there really is very little evidence statistically to support the fact that it does any good. But politically, I think it is terribly popular.

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

Mr. HENLEY: Mr. President and Members of the Senate: I violently disagree with my friend, the Senator from Cumberland, Senator Brennan. I think that preaching the policy of mandatory sentences certainly doesn't make for popularity. I have been doing it for years in the House and I got ridiculed, but I still do it.

I think that the time has come when we have got to be more strict, we have got to be more rough. I have debated this time after time in the past, that we have been told well, let the judges make the decisions, and my opinion is that either through kindness, or possibly a mistake in judgment, the time has come when in a few cases it isn't so much just a sentence. This bill states that there shall be no time off; no probation and no time off. That is a very strong part of the bill. A good many times a judge might give the sentence, and still they would still be free in two or three months because of good behavior and time off. In my opinion, I think that the time has come when we ought to give this a try and see if these mandatory sentences will not help. So I shall certainly support it, no matter how unpopular it may be in some circles.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Penobscot, Senator Tanous, that the Senate accept the Minority Ought to Pass Report "B" on Bill, "An Act Relating to Mandatory Sentences for Persons Convicted of Second Offense Breaking, Entering and Larceny or Burglary". A roll call has been requested. In order for the Chair to order a roll call, it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending motion before the Senate is the motion of the Senator from Penobscot, Senator Tanous, that the Senate accept the Minority Ought to Pass Report "B" of the Committee on Bill, "An Act Relating to Mandatory Sentences for Persons Convicted of Second Offense Breaking, Entering and Larceny or Burglary". A "Yes" vote will be in favor of accepting the Minority Ought to Pass Report "B"; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Anderson, Berry, Cianchette, Cox, Cummings, Graffam, Greeley, Haskell, Henley, Hichens,

Huber, Katz, Kelley, Marcotte, Minkowsky, Morrell, Richardson, Roberts, Sewall, Shute, Tanous, Wyman, MacLeod.

NAYS: Senators Brennan, Clifford, Conley, Speers.

ABSENT: Senators Cyr, Danton, Fortier, Joly, Olfene, Schulten.

A roll call was had. 23 Senators having voted in the affirmative, and four Senators having voted in the negative, with six Senators being absent, the Minority Ought to Pass Report "B" of the Committee was Accepted and the Bill Read Once. Under suspension of the rules, the Bill was Read a Second Time and Passed to be Engrossed.

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

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

Bill, "An Act to Clarify the Power of the Commissioner of Maine Department of Transportation and the Chief of the Maine State Police." (H. P. 1857) (L. D. 2350)

Pending—Enactment.

The PRESIDENT: The Senator has the floor.

Mr. BERRY: Mr. President and Members of the Senate: There might have been a little confusion on the previous vote. This bill provides for the setting and determination of the speeds on the highway by the head of the Department of Public Safety and the Chief of the State Police. Some people feel that this is quite a lot of authority to give two people without any right of review. Senator Tanous has informally agreed that he would enter an amendment on the omnibus bill which would make such rulings confirmed subject to the approval of the Governor and Council. I would move the pending question.

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

Mr. TANOUS: Mr. President and Members of the Senate: In further explanation of my change of position on this bill, I mentioned yesterday when we enacted the emergency powers granting

the Governor the right to regulate speed limits that this is contained in that bill. But that particular bill was amended in the House whereby the Governor would have to call the legislature into session after ninety days of using his authority under that bill. Frankly, I can't see the need to call the legislature into special session to confirm an act of regulating the speed on our highways. For that reason, I have backed off in my opposition to this particular bill. My philosophy hasn't changed as far as delegating additional powers to department heads, but with the tacit understanding the omnibus bill will contain an amendment which will have to be confirmed by the Governor and Council, I can perhaps buy this much of it. Thank you.

The PRESIDENT: Is the Senate ready for the question?

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

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

Bill, "An Act to Correct Errors and Inconsistencies in the Public Laws." (S. P. 953) (L. D. 2606)

Tabled — March 25, 1974 by Senator Tanous of Penobscot.

Pending — Passage to be Engrossed.

(Senate Amendment "A" (S-427)

(Senate Amendment "B" (S-428)

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

Senate Amendment "E", Filing No. S-432, was Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. BERRY: Mr. President and Members of the Senate: This amendment clarifies some problems which have existed on the problem of deferred compensation for state employees. You will recall this is a program whereby one can set aside money for future receipt and it has

income tax advantages. This was prepared by the office of the Attorney General, with Bill Siebert and Mr. Williams of the Bureau of Administration and Finance. I move its adoption.

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

The motion prevailed.

Mr. Brennan of Cumberland then presented Senate Amendment "F" and moved its Adoption.

Senate Amendment "F", Filing No. S-433, was Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. BRENNAN: Mr. President and Members of the Senate: Very briefly, what this amendment does, it would no longer be required for the Public Employees Labor Relations Board to wait seven days before it would step into a dispute where an unfair or prohibited labor practice has been alleged. In effect, it would allow the Board to act much more expeditiously. I sponsored the amendment on behalf of the director of that Board.

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

The motion prevailed.

Mrs. Cummings then presented Senate Amendment "L" and moved its Adoption.

Senate Amendment "L", Filing No. S-440, was Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mrs. CUMMINGS: Mr. President and Members of the Senate. This merely makes it possible for the Liquor Commission to not hold a public hearing before granting the liquor license to the charitable institutions. Otherwise they would have had to wait a week before they could have gotten the permission and, as was pointed out previously, usually these charitable institutions are run by amateurs and perhaps in a week they would not get it in on time.

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

Mr. HICHENS: Mr. President and Members of the Senate: I cannot

understand the purpose of this amendment. These hearings have been conducted in the past and have had some half-way decent results. I cannot see why this amendment should be added to the inconsistencies bill at this time. If it is correcting an error in chapter 747 as it states, I cannot see where that error has ever been implemented. So I move for indefinite postponement of the amendment.

The PRESIDENT: The Senator from York, Senator Hichens, now moves that Senate Amendment "L" be indefinitely postponed.

The Chair recognizes the Senator from Penobscot, Senator Cummings.

Mrs. CUMMINGS: Mr. President and Members of the Senate: We have enacted the bill, and we have also enacted the first amendment to the bill which did away with the twenty days notice that had to be given to the Liquor Commission before they were allowed to give permission for these charitable institutions to sell liquor at their fund-raising things. This is actually just to expedite something that we have already passed.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President and Members of the Senate: I am placed in an awful predicament. I can understand Senator Cummings's request. I am of the opinion that any of these proposed amendments to the omnibus bill that are presented from the floor, if there is any question, or if there is any feeling that it is a substantive change, then I feel, as chairman of that particular committee, I have got to vote with anyone who might object to any of these proposed amendments. Thank you.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from York, Senator Hichens, that Senate Amendment "L" be indefinitely postponed. As many Senators as are in favor of the motion to indefinitely postpone Senate Amendment "L" will please say "Yes"; those opposed "No".

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

Thereupon, Senate Amendment "L" was Adopted.

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

Senate Amendment "H", Filing No. S-436, was Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. SPEERS: Mr. President and Members of the Senate: This particular amendment was drafted by the Attorney General's office. It has to do with the State Fire Marshal's office. Anyone who has looked at the current state of that law recognizes that it is a confusing mishmash of statutory language at the present time. This amendment was drafted by the Attorney General's office to try and clarify that problem. There has been a problem arise in the City of Gardiner out of which it was soon discovered that the present statutory language is inadequate and confusing, and this language is designed to clarify the powers of that office.

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

The motion prevailed.

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

Senate Amendment "G", Filing No. S-434, was Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. SHUTE: Mr. President and Members of the Senate: This is not an error nor is it an inconsistency; it is an oversight. The statement of fact tells you the story on this. Our constitutional officers were overlooked when raises were granted effective April 1st, and this amendment would correct that situation. It would have the salaries of the four constitutional officers made effective April 1st to conform with the effective date of salaries of other state officers and employees as enacted previously by this legislature.

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

The motion prevailed.

Mr. Speers of Kennebec then

presented Senate Amendment "K" and moved its Adoption.

Senate Amendment "K", Filing No. S-439, was Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. SPEERS: Mr. President and Members of the Senate: We passed a bill in the regular session of the 106th with language in a certain manner, and passed another bill in this special session to change another aspect of the bill, but in the reenactment of the same language we reverted back to the language that was present prior to our enactment of the bill in the regular session. So this particular amendment makes the bill we enacted in this special session conform to the language of the bill that we enacted in the regular session.

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

The motion prevailed.

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

Senate Amendment "C", Filing No. S-429, was Read.

The PRESIDENT: The Senator has the floor.

Mr. TANOUS: Mr. President and Members of the Senate: This particular amendment seeks to amend part of our Land Use Law. Apparently there is a serious difference of opinion as to the interpretation of an act we enacted in 1973. There were two words that they couldn't find a definition for dealing with areas discernible as having relatively homogenous patterns. The individuals that I talked with relative to this on both sides of the fence felt that these two words were just impossible to define, so they thought it would be best to omit them from the existing law.

Also we are amending section 43B of title 12, and it doesn't make any substantive change except that it cleans up the language, and this I have been assured by both parties. If anybody has any serious objections to this, who feel it is doing any more than that, then don't hesitate to say so.

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

The motion prevailed.

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

Senate Amendment "D", Filing No. S-431, was Read.

The PRESIDENT: The Senator has the floor.

Mr. TANOUS: Mr. President and Members of the Senate: As an explanation of Senate Amendment "D" that I have offered just now, this merely reenacts the entire hospital district law for the City of Caribou. Apparently they came back at this session to increase their bond issue, and when they did they neglected to extend the life of their hospital district. Apparently their attorney was supposed to include that in the proposed amendment. Because of the self-destructive date in the bill, the present law is no longer in effect. Everybody up there has agreed they should extend the life of their hospital district bill.

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

The motion prevailed.

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

Senate Amendment "I", Filing No. S-437, was Read.

The PRESIDENT: The Senator has the floor.

Mr. TANOUS: Mr. President and Members of the Senate: This amendment, I would say, is substantive in nature, and I leave it up to you for your discretion. This deals with the per diem fee charged by the board for the Maine Veterans Small Loan Act. Apparently, when they enacted this particular law they were having monthly meetings and they were being paid \$25 per monthly meeting. Since the enactment of that law, because of the increase of duties on the part of the board, they are meeting much more often than once a month, and they would like to amend it so that they would be paid \$25 for each meeting, as they had felt originally was the intention of the law. They don't need any additional appropriation because they feel that the present appropriation is substantial

enough to take care of any additional cost.

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

The motion prevailed.

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

Senate Amendment "N", Filing No. S-442, was Read.

The PRESIDENT: The Senator has the floor.

Mr. SHUTE: Mr. President and Members of the Senate: This past winter has been a season of disaster for the ski areas, the resort areas. Two of the major ones are in the area that I am concerned with: Saddleback and Sugarloaf. This amendment, if it is passed, would relieve these areas from undue hardship because of the lack of snow and because of the energy crisis which has been with us, and would waive the dollar food requirements for one year only, for 1975, for renewal of a Class A liquor license. But in no event, in no event, would the commission be authorized to waive the volume of 60 percent food sales. I think this is a reasonable request.

Again, my friend from York will suggest that this is neither error nor inconsistency, but it is of an emergency nature. The license for next year will be based on the dollar food sales of 1974, and they just haven't been able to effect this kind of sale to qualify for a Class A license because they haven't had the people there. I think this is a reasonable request, and I move its adoption.

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

The motion prevailed.

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

Papers from the House

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

Enactors

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

An Act Amending the Elderly

Householders Tax and Rent Refund Act to Improve Benefits. (H. P. 2050) (L. D. 2584)

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

An Act to Establish Guidelines for Release of Accused Persons Pending Trial. (S. P. 946) (L. D. 2594)

An Act Clarifying the Regulation of Roadside Cutting Practices. (S. P. 948) (L. D. 2596)

An Act to Authorize Interagency Transfer of the Supervision and Control of Public Lands. (H. P. 2073) (L. D. 2600)

An Act Creating the Maine Consumer Credit Code. (H. P. 2043) (L. D. 2582)

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

Committee Reports House

Ought to Pass in New Draft

The Committee on Education on, Bill, "An Act Creating the Maine Education Commission and Vesting in the Commission Certain Responsibilities." (H. P. 1917) (L. D. 2454)

Reports that the same Ought to Pass in New Draft under New Title: "An Act Creating the Post-secondary Education Commission of Maine" (H. P. 1917) (L. D. 2454)

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

Which report was Read and Accepted in concurrence and the Bill in New Draft Read Once. Under suspension of the rules, the Bill was then Read a Second Time and Passed to be Engrossed in concurrence.

Under further suspension of the rules, sent forthwith to the Engrossing Department.

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

Joint Resolution — Creating a Task Force on Mental Health Study. (S. P. 913)

Tabled — February 25, 1974 by Senator Berry of Cumberland.

Pending — Adoption.

Which received Passage.

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

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

Joint Order — Relative to Legislative Council conducting a study through Committee on Education on Bill, "An Act Abolishing the State Board of Education and Creating an Advisory Board." (S. P. 863) (L. D. 2432) (S. P. 929)

Tabled — March 8, 1974 by Senator Berry of Cumberland.

Pending — Passage.

Which received Passage.

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

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

Joint Order — Relative to Legislative Council study of "An Act to Abolish the Assigned Risk Plan and to Establish the Maine Motor Vehicle Reinsurance Facility." (H. P. 1860) (L. D. 2365) (H. P. 2033)

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

Pending — Passage

Which received Passage in concurrence.

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

Joint Order — Relative to Legislative Council feasibility study of distribution centers relative to the National School Lunch Program. (H. P. 2035)

Tabled — March 15, 1974, by Senator Berry of Cumberland.

Pending — Passage.

Which received Passage in concurrence.

On motion by Mr. Berry of Cumberland, the Senate voted to take

from the table the sixth unassigned matter:

Joint Order — Relative to Legislative Council reviewing findings of Maine Management and Cost Survey Commission. (H. P. 2068)

Tabled — March 21, 1974 by Senator Berry of Cumberland.

Pending Passage.

Which received Passage in concurrence.

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

Joint Order — Relative to Legislative Council including in State Government Committee study of Personnel Laws, An Act to Establish Pay Scales for Managers and Assistant Managers in State Liquor Stores. (H. P. 1859) (L. D. 2354) (H. P. 2066)

Tabled — March 21, 1974 by Senator Berry of Cumberland.

Which received Passage in concurrence.

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

After Recess

Called to order by the President.

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

Joint Order — Relative to working patients at Augusta Mental Health Institute, Bangor Mental Health Institute and Pineland Center. (S. P. 943)

Tabled — March 19, 1974 by Senator Berry of Cumberland.

Pending — Passage.

The PRESIDENT: The Senator has the floor.

Mr. BERRY: Mr. President and Members of the Senate: This order introduced by Senator Conley is a very worthwhile order and it puts in writing a court opinion that the state has to adopt this posture. However, there is no money that has been appropriated, and it is a nice statement of opinion. I think if we are going to be forced to find the money

to do it, why, we will have to do it at the next regular session. Accordingly, I move that this Joint Order be indefinitely postponed.

The PRESIDENT: The Senator from Cumberland, Senator Berry, now moves that this Joint Order be indefinitely postponed.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: The good Majority Floorleader has certainly stated the case well. There has been a federal court decision that has come down and states very clearly and emphatically that we can no longer use patients to work in the hospitals and, therefore, we do need an appropriation if we are going to discontinue that practice. I would say that we have had two bills, one in the regular session and one also in the special session, asking for an amount of money to be able to pay the patients. Unfortunately, we don't know if we are going to have a law suit on our hands or not, so it is just a matter of time that we are going to face up to that responsibility.

The PRESIDENT: Is it now the pleasure of the Senate that this Joint Order be indefinitely postponed?

Thereupon, the Joint Order was Indefinitely Postponed.

Reconsidered Matter

On motion by Mr. Tanous of Penobscot, the Senate voted to take from the table the following unassigned matter:

Bill "An Act to Correct Errors and Inconsistencies in the Public Laws." (S. P. 953) (L. D. 2606)

Tabled — earlier in today's session by Mr. Tanous of Penobscot.

Pending — Passage to be Engrossed.

Mr. Tanous of Penobscot then moved that the Senate reconsider its action whereby the Senate Adopted Senate Amendment "N".

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

Mr. SHUTE: Mr. President and Members of the Senate: I would request a division on that motion. I indicated to

the Senate members earlier that you may consider this a substantive change. I did not fly it under false colors whatsoever. I indicated the problem of the ski resort areas and the restaurants that are in these areas are in deep trouble this year because of lack of patronage, lack of snow, and lack of gasoline for the patrons to get there. Unless something is done about this particular liquor law which will self-destruct next year, then these restaurants with Class A licenses will be in deep trouble. I would ask for a division on the motion.

The PRESIDENT: A division has been requested. The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: I don't know if all of us are cognizant of what may be happening to the winter recreation business, but I sure hope we can make this one small expression of support and not remove this from the omnibus bill.

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

Mr. HICHENS: Mr. President and Members of the Senate: I am sorry I disappointed you all when the amendment was originally put on because even the sponsor was amazed that I didn't get up on my feet. But a bill similar to this amendment, I understand, was prepared about a month ago and was refused entrance into the legislative session. I also understand that it hasn't been the owners of these different resorts that have applied for this but it was the Liquor Commissioner. It was the Liquor Control Commissioner who made this appeal. Now, apparently it is because he wants the business and felt that he has been suffering because of the lack of snow and the energy crisis and so forth. If they are going to help the ski operators in these areas, why not do something for the gas station operators. They are certainly taking it in the neck, so why not put in some licenses so they can sell beer or liquor to make up for their losses, and go a little farther even beyond that. This has been no error in the inconsistencies law. This is a substantive change in the

law and I do not feel that it should be allowed. I am going to ask for a roll call on the reconsideration motion.

The PRESIDENT: A roll call has been requested. The Chair recognizes the Senator from Franklin, Senator Shute.

Mr. SHUTE: Mr. President and Members of the Senate: I dislike taking issue with my good friend from York County, Senator Hichens. Licensees in the resort areas aren't necessarily operators of ski resorts. They are the people that have invested thousands of dollars in the ski industry because of the people who patronize ski areas. They come to Maine and they spend their money and they stay for a period of time but this year they have not. Because of the shortage of snow and gasoline, the people who operate these restaurants have appealed to the only person in state government they feel can help them, and that is the Commissioner, and the Commissioner has indeed come to the legislature. But don't you think that I haven't heard from these individuals throughout my area complaining about their problem. But they don't know what to do and I didn't really know the answer to it, and I was unaware of the fact that a bill had been entered some four weeks ago, or beyond this time period, which would have relieved them from this problem. However, at that time they still had some measure of winter left and they thought they might bail themselves out. But last Thursday's storm only brought another four inches of snow to the ski areas and it is still a disaster, and spring has already started. There is really no hope in sight for these people unless some kind of relief is given them, and this is a very small measure of relief.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Penobscot, Senator Tanous, that the Senate reconsider its action whereby it adopted Senate Amendment "N" to L. D. 2606. A roll call has been requested. In order for the Chair to order a roll call, it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted.

Obviously less than one-fifth having arisen, a roll call is not ordered. The Chair will order a division. As many Senators as are in favor of the motion of the Senator from Penobscot, Senator Tanous, that the Senate reconsider its action whereby it adopted Senate Amendment "N" will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

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

Mr. Hichens of York then presented Senate Amendment "O" and moved its Adoption.

Senate Amendment "O", Filing No. S-443, was Read.

The PRESIDENT: The Senator has the floor.

Mr. HICHENS: Mr. President and Members of the Senate: This bill was passed in the regular session granting monies for group home services throughout the state. It was the intent of the committee that it would allow the department to have capital construction or purchase buildings in order to conduct these group home activities, but when it was implemented or attempted to be implemented about a month ago, it was the decision of the Attorney General that the Bill as passed did not include purchase of buildings or capital construction. So in order for them to proceed, I have presented this amendment and I move its adoption.

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

The motion prevailed.

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

Mr. TANOUS: Mr. President, we are slowly running out of letters in the alphabet and, under the circumstances, I would move the engrossment of this bill.

The PRESIDENT: The Senator from Penobscot, Senator Tanous, now moves that Bill, "An Act to Correct Errors and Inconsistencies in the Public Laws", as amended, be passed to be engrossed. Is this the pleasure of the Senate?

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

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

(Senate at Ease)

Called to order by the President.

Reconsidered Matter

On motion by Mr. Tanous of Penobscot, the Senate voted to reconsider its prior action whereby Bill, "An Act Relating to the Dredging, Filling or Otherwise Altering of Rivers, Streams and Brooks", (H. P. 2053) (L. D. 2588), was Passed to be Engrossed.

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

Senate Amendment "B", Filing No. S-444, Was Read.

The PRESIDENT: The Senator has the floor.

Mr. TANOUS: Mr. President and Members of the Senate: Earlier in the session we enacted a resolve, which was

sponsored by Senator Shute, dealing with dredging rights for the Town of Bingham. On the particular bill before us, there is a serious question that it might possibly repeal by reference the resolve which was enacted by this legislature, and the purpose of the amendment is to make certain that this particular bill does not in fact repeal by reference the resolve. I want to thank Senator Anderson for bringing this to my attention earlier yesterday.

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

Thereupon, Senate Amendment "B" was Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Under suspension the rules, sent down forthwith for concurrence.

On motion by Mr. Sewall of Penobscot, Adjourned until 10:00 o'clock tomorrow morning.