

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh
Legislature*

OF THE

STATE OF MAINE

1975

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Wednesday, March 12, 1975

Senate called to order by the President.
Prayer by the Honorable Elmer F. Berry, Jr. of Auburn:

Let us Pray. God, we ask you, as members of the 107th Legislature, to grant us the ability, the courage, and the wisdom to make the right decisions on matters that come before us which affect the lives of so many people of this state. Lord, we ask you to allow us to function as individuals, yet to unite in the best interest of the people of Maine. Lord, if these requests be granted, then it shall be the people of Maine who shall benefit. Amen.

Reading of the Journal of yesterday.

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

Bill, "An Act to Clarify the Definition of Approved Alcohol Treatment Facility and to Allow Payments to be Made Directly to the Facility." (S. P. 273) (L. D. 879)

In the Senate March 5, 1975, referred to the Committee on Judiciary and Ordered Printed.

Comes from the House, referred to the Committee on Health and Institutional Services and Ordered Printed in non-concurrence.

On motion by Mr. Speers of Kennebec, the Senate voted to Insist.

Non-concurrent Matter

Bill, "An Act Relating to Open Containers of Alcoholic Beverages in Motor Vehicles." (H. P. 720) (L. D. 896)

In the House March 5, 1975, referred to the Committee on Judiciary and Ordered Printed.

In the Senate March 7, 1975, referred to the Committee on Liquor Control and Ordered Printed, in non-concurrence.

Comes from the House, that Body having Insisted.

On motion by Mr. Speers of Kennebec, the Senate voted to Recede and Concur.

Joint Order

STATE OF MAINE

In The Year Of Our Lord One Thousand Nine Hundred And Seventy-five.

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of
MT BLUE HIGH SCHOOL OF
FARMINGTON
BOYS SKI TEAM
KENNEBEC VALLEY CONFERENCE
CHAMPIONS

FOR THE ACADEMIC YEAR 1975

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (H. P. 808)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

Joint Order

STATE OF MAINE

In The Year Of Our Lord One Thousand Nine Hundred And Seventy-five.

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of

THE CARIBOU VIKINGS
EASTERN MAINE CLASS A
BASKETBALL CHAMPIONS
FOR THE ACADEMIC YEAR 1975

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (H. P. 835)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

Joint Order

STATE OF MAINE

In The Year Of Our Lord One Thousand Nine Hundred And Seventy-Five.

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of

THE MAINE CENTRAL INSTITUTE
PREPPERS
OF PITTSFIELD
NEW ENGLAND CLASS A PREP
SCHOOL BASKETBALL CHAMPIONS
FOR THE ACADEMIC YEAR 1975

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (H. P. 836)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

House Papers

Bills, Resolve, and Resolution today received from the House requiring Reference to Committees were acted upon in concurrence, except for the following:

Bill, "An Act to Increase the Size of Claim Allowable under the Jurisdiction of the Small Claims Court." (H. P. 770) (L. D. 941)

Comes from the House referred to the Committee on Legal Affairs and Ordered Printed.

On motion by Mr. Speers of Kennebec, Referred to the Committee on Judiciary and Ordered Printed in non-concurrence.

Sent down for concurrence.

Bill, "An Act to Clarify the Definition of Homestead under the Elderly Householders Tax and Rent Refund Act." (H. P. 762)

Bill, "An Act to Increase the Income Limits under the Elderly Householder Tax and Rent Refund Act." (H. P. 763)

The Committee on Reference of Bills suggested that these Bills be referred to the Committee on Taxation.

Come from the House, Indefinitely Postponed.

On motion by Mr. Speers of Kennebec,

the above two Bills were tabled and Tomorrow Assigned, pending Reference to Committee.

Senate Papers

Appropriations and Financial Affairs

Mr. Danton of York presented, Bill, "An Act Relating to the Maine State Lottery Law." (S. P. 299)

Which was referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Sent down for concurrence.

Business Legislation

Mr. Clifford of Androscoggin presented, Bill, "An Act Relating to Filing Requirements for Perfecting a Security Interest in Mobile Homes under the Uniform Commercial Code." (S. P. 297)

Which was referred to the Committee on Business Legislation and Ordered Printed.

Sent down for concurrence.

Fisheries and Wildlife

Mr. Berry of Androscoggin presented, Bill, "An Act Concerning Snowmobile Registration Fees." (S. P. 295)

Which was referred to the Committee on Fisheries and Wildlife and Ordered Printed.

Sent down for concurrence.

Judiciary

Mr. Reeves of Kennebec (Co-sponsors: Mr. Graham of Cumberland, Mr. Clifford of Androscoggin and Mr. Roberts of York) presented, Bill, "An Act Establishing Definite Maximum Terms of Commitment to Juvenile Training Centers." (S. P. 302)

Which was referred to the Committee on Judiciary and Ordered Printed.

Sent down for concurrence.

Labor

Mr. Pray of Penobscot presented, Bill, "An Act Relating to a Third Fifty-Two Week Extension for Vocational Rehabilitation under the Workmen's Compensation Statutes." (S. P. 292)

Mr. Carbonneau of Androscoggin presented, Bill, "An Act to Repeal the Law Requiring Fixed Wage Rates to be Paid on Public Works." (S. P. 301)

Which were referred to the Committee on Labor and Ordered Printed.

Sent down for concurrence.

Legal Affairs

Mr. Berry (By Request) of Androscoggin presented, Bill, "An Act to Authorize Municipalities to Regulate the Use of Snowmobiles within Municipal Limits." (S. P. 291)

Which was referred to the Committee on Legal Affairs and Ordered Printed.

Sent down for concurrence.

Liquor Control

Mr. Danton of York presented, Bill, "An Act Relating to Special Agency Stores." (S. P. 290)

Which was referred to the Committee on Liquor Control and Ordered Printed.

Sent down for concurrence.

Natural Resources

Mr. Clifford of Androscoggin presented, Bill, "An Act to Clarify the Meaning of the Term "Abutting" under the Site Selection Statutes." (S. P. 298)

Mr. Reeves of Kennebec presented, Bill, "An Act Authorizing the Commissioner of Conservation to Confer and Cooperate with the United States Geological Survey in Certain Instances." (S. P. 300)

Which were referred to the Committee on Natural Resources and Ordered Printed.

Sent down for concurrence.

State Government

Mr. Curtis of Penobscot presented, Bill, "An Act to Establish the Office of Canadian Relations." (S. P. 294)

Mr. Clifford of Androscoggin presented, Bill, "An Act to Make Administrative Regulations Available to the Public." (S. P. 296)

Which were referred to the Committee on State Government and Ordered Printed.

Sent down for concurrence.

Taxation

Mr. Curtis of Penobscot presented, Bill, "An Act Relating to Motor Vehicle Excise Tax." (S. P. 293)

Which was referred to the Committee on Taxation and Ordered Printed.

Sent down for concurrence.

Committee Reports

House

The following Ought Not to Pass reports shall be placed in the legislative files without further action pursuant to Rule 17-A of the Joint Rules:

Bill, "An Act to Impose a Sales Tax on Advertising Purchased from Newspapers, and Radio and Television Stations." (H. P. 402) (L. D. 491)

Bill, "An Act Concerning Excise Tax Credits on Motor Vehicles." (H. P. 348) (L. D. 432)

Bill, "An Act to Compensate Municipalities for Loss of Taxes on State-Owned Properties." (H. P. 225) (L. D. 281)

Bill, "An Act Appropriating Funds to the Attorney General for Salary Adjustments." (H. P. 563) (L. D. 691)

Bill, "An Act to Provide State Reimbursement of Costs for Prosecuting State Prisoners." (H. P. 105) (L. D. 102)

Leave to Withdraw

The Committee on Appropriations and Financial Affairs on, Resolve, Appropriating Funds for the Maintenance of Ocean Beach at Belfast. (H. P. 173) (L. D. 194)

Reported that the same be granted Leave to Withdraw.

The Committee on Judiciary on, Bill, "An Act Restricting the Use of Personal Recognizance as Bail to Persons Committing Misdemeanors." (H. P. 297) (L. D. 347)

Reported that the same be granted Leave to Withdraw.

The Committee on Judiciary on, Bill, "An Act to Require Restitution by Offenders whose Cases have been Continued for Sentence and who have been Placed on Probation." (H. P. 300) (L. D. 350)

Reported that the same be granted Leave to Withdraw.

The Committee on Judiciary on, Bill, "An Act Reducing the Maximum Age of a Juvenile Offender to 16." (H. P. 368) (L. D. 462)

Reported that the same be granted Leave to Withdraw.

The Committee on State Government on, Bill, "An Act Relating to the Issuance of Motor Vehicle Registrations by Municipal Tax Officers." (H. P. 152) (L. D. 238)

Reported that the same be granted Leave to Withdraw.

Come from the House, the reports Read and Accepted.

Which reports were Read and Accepted, in concurrence.

Change of Reference

The Committee on State Government on, Bill, "An Act Relating to Restoration to State Service." (H. P. 517) (L. D. 635)

Reported that the same be referred to the Committee on Veterans and Retirement.

Comes from the House, the report Read and Accepted and the Bill referred to the Committee on Veterans and Retirement.

Which report was Read and Accepted and the Bill referred to the Committee on Veterans and Retirement in concurrence.

Ought to Pass — As Amended

The Committee on Labor on, Bill, "An Act to Require Industrial Accident Insurers to Maintain Agents Within the State of Maine." (H. P. 456) (L. D. 590)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-55).

Comes from the House, the Bill Passed to be Engrossed as Amended by Committee Amendment "A".

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

Divided Report

The Majority of the Committee on Fisheries and Wildlife on, Bill, "An Act Relating to the Use of Leg Hold Traps under the Inland fish and Game Law." (H. P. 400) (L. D. 489)

Reported that the same Ought to Pass.

Signed:

Senators:

GRAFFAM of Cumberland
PRAY of Penobscot

Representatives:

CHURCHILL of Orland
TOZIER of Unity
USHER of Westbrook
MADACHERN of Lincoln
DOW of West Gardiner
KAUFFMAN of Kittery
WALKER of Island Falls
MARTIN of St. Agatha
MILLS of Eastport

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

Signed:

Senator:

McNALLY of Hancock

Representative:

PETERSON of Caribou

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

Which reports were Read.

Thereupon, on motion by Mr. Reeves of Kennebec, the Minority Ought Not to Pass Report of the Committee was Accepted in non-concurrence.

Sent down for concurrence.

(See action later in today's session.)

Divided Report

The Majority of the Committee on Judiciary on, Bill, An Act to Remove District Court Jurisdiction over Non-Criminal Acts Committed by a Juvenile. (H. P. 350) (L. D. 434)

Reported that the same Ought Not to Pass.

Signed:

Senators:

COLLINS of Knox
MERRILL of Cumberland
CLIFFORD of Androscoggin

Representatives:

HUGHES of Auburn
SPENCER of Standish
HEWES of Cape Elizabeth
McMAHON of Kennebunk
MISKAVAGE of Augusta
GAUTHIER of Sanford
BENNETT of Caribou
HOBBS of Saco

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

Signed:

Representatives:

HENDERSON of Bangor
PERKINS of So. Portland

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

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

Divided Report

The Majority of the Committee on Liquor Control on, Bill, "An Act Relating to the Definition of Restaurant under the Liquor Laws." (H. P. 532) (L. D. 650)

Reported that the same Ought Not to Pass.

Signed:

Senators:

GRAFFAM of Cumberland
CARBONNEAU of Androscoggin
DANTON of York

Representatives:

DYER of So. Portland
TWITCHELL of Norway
LIZOTTE of Biddeford
RAYMOND of Lewiston
JACQUES of Lewiston
MAXWELL of Jay
PIERCE of Waterville
FAUCHER of Solon

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

Signed:

Representatives:

IMMONEN of West Paris
PERKINS of Blue Hill

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

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

Divided Report

The Majority of the Committee on Fisheries and Wildlife on, Bill, "An Act Relating to the Statewide Open Deer Season." (H. P. 191) (L. D. 223)

Reported that the same Ought Not to Pass.

Signed:

Senators:

McNALLY of Hancock
GRAFFAM of Cumberland

Representatives:

USHER of Westbrook
TOZIER of Unity
MARTIN of St. Agatha
DOW of West Gardiner
WALKER of Island Falls
KAUFFMAN of Kittery
PETERSON of Caribou
MILLS of Eastport

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

Signed:

Senator:

PRAY of Penobscot

Representatives:

CHURCHILL of Orland

MacEACHERN of Lincoln

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

Which reports were Read.

Mr. McNally of Hancock then moved that the Majority Ought Not to Pass Report of the Committee be Accepted.

The PRESIDENT: The Senator has the floor.

Mr. McNALLY: Mr. President and Members of the Senate: This is exactly what the department wants, and that is to have two deer seasons instead of one. That is why the bulk of the committee went along with it.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Hancock, Senator McNally, that the Senate accept the Majority Ought Not to Pass Report of the Committee. Is this the pleasure of the Senate?

The motion prevailed.

Senate

The following Ought Not to Pass report shall be placed in the legislative files without further action pursuant to Rule 17-A of the Joint Rules:

Bill, "An Act to Provide a Mandatory 60-day Sentence for Anyone Convicted of a Felony." (S. P. 9) (L. D. 41)

Ought to Pass in New Draft

Mr. Graham for the Committee on Human Resources on, Bill, "An Act Requiring the Ramping of Curbs at Crosswalks for Physically Handicapped and Elderly Persons." (S. P. 108) (L. D. 362)

Reported that the same Ought to Pass in New Draft under Same Title (S. P. 289) (L. D. 987)

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

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act to Prohibit Filing of Criminal Cases." (S. P. 12) (L. D. 53)

Reported that the same Ought to Pass in New Draft under New Title: "An Act Relating to the Filing of Criminal Cases" (S. P. 303) (L. D. 988)

Signed:

Senators:

COLLINS of Knox

CLIFFORD of Androscoggin

Representatives:

McMAHON of Kennebec

HEWES of Cape Elizabeth

PERKINS of South Portland

HUGHES of Auburn

HENDERSON of Bangor

MISKAVAGE of Augusta

BENNETT of Caribou

SPENCER of Standish

GAUTHIER of Sanford

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

Signed:

Senator:

MERRILL of Cumberland

Representative:

HOBBINS of Saco

Which reports were Read.

Mr. Merrill of Cumberland then moved that the Senate accept the Minority Ought

Not to Pass Report of the Committee.

The PRESIDENT: The Senator has the floor.

Mr. MERRILL: Mr. President and Members of the Senate: This bill is not in any sense a very important bill, I don't think, and in one way I don't think it will make a great deal of difference, and I think probably the other members of the Judiciary Committee would agree with me, whether we pass this bill or not.

One might ask the question then why I take the time and have taken the effort to be in what is a distinct minority. I think that there are a couple of reasons, and I would like to explain just briefly what this bill does.

All this bill does, as I understand it from even its supporters, is to put into the Maine law what the Maine Supreme Court has already done. The Maine Supreme Court has interpreted the law with respect to the filing of criminal cases, and its interpretation is essentially what we are putting here in the Maine law today.

I oppose this for two reasons. First of all, I think that in the spirit of Senator Katz's action earlier in the session in destroying a piece of legislation which would have had no effect at all really, and which was just an exercise for this body and the other body that really would accomplish nothing, it would make no change in the law of the state, this is exactly what this would do. All this does is codify a Supreme Court case. I suppose we could read every Supreme Court Case and then put them into our law if we wanted to, but we wouldn't accomplish much, and there are some disadvantages.

I would like to come to the disadvantages. I don't disagree with what the court decided the law was in regards to filing the cases, and the philosophy that this bill embodies I have no major disagreement with, but by making this law, we do one other thing other than I think just have an exercise that accomplishes very little, and that is that we freeze, until we decide to change the law, what the Supreme Court decided. And I think there might be, with a new case that arises before the Maine Supreme Court, a desire to modify this rule slightly. In point of fact, I think there were some questions that weren't answered in that Supreme Court Case so that the Supreme Court may want to modify its decision when it has raised those questions.

Right now we allow the case to be filed with the payment of costs. Now, the law is interpreted by the Supreme Court, and it would be codified here so it would allow that case to be taken off file by motion by the party. The question of exactly what happens to that filing of costs once the case is brought out of the file wasn't answered by the Supreme Court directly, and I think that when they approach that question they may want more flexibility than is provided here.

When we discussed this in committee and I raised the question as to what this bill really accomplished, it was pointed out that maybe all this bill accomplished was it would put young lawyers on notice as to what the law was. Well, first of all, I didn't think that that was necessary, and maybe Senator Collins disagrees, but if the court wants to put young lawyers on notice it has a vehicle. It can put it in its court rules, and then it can make changes when it deems this to be appropriate.

So, in summation, I think that this law really accomplishes very little, and what it does accomplish is that it freezes the court

into a position, when I think what we really want to do is allow the court to have a little flexibility in this area. And if we approve of what the court has done up until now, I don't see why we feel the need to freeze its action.

I would ask for a division.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President and Members of the Senate: I agree with almost everything that the Senator from Cumberland, Senator Merrill, has said. I think the only reason to put into our statutory law these rules is that frequently the legislature disagrees with what the courts have done and we have to try to change the direction. It seems to me that this is a case where we are patting on the back what the court has done, and the point where I disagree with my brother from Cumberland is that I do not feel that this will inhibit the courts from further developing the court rules with respect to costs or other fine points in procedure.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I would agree with the good Senator from Cumberland, Senator Merrill, that this bill is not the most important one to come before this legislature. But I would disagree with him when he says that there was complete agreement as to the operative effect of the Supreme Court decision, because the sponsor of the bill and the bill in its original version went beyond what the redraft does: it completely prohibited and outlawed the filing of cases.

The redraft, I think, is closer to the court decision but there is some disagreement, and I think that it is a legislative prerogative to state what they feel the law should be in the disposition of cases in any court. So I think it is in keeping with the role of the legislature to define what filing of cases will be and the limits on the filing of cases, as long as it is consistent with legislative policy and with the court decision. I think this is, but I do think there was a disagreement between the sponsor and some other members of the committee as to how far the court decision went. The court decision did not completely prohibit the filing of cases. The redraft does not completely prohibit the filing of cases. It merely allows the filing, and allows either party, the state or the defense, to remove the filed case from the state of abeyance of which it is to bring it back onto the docket for other disposition.

I would urge the Senate to reject the minority report and to accept the majority report. Thank you Mr. President.

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

Mr. MERRILL: Mr. President and Members of the Senate: Just one point in response to the remarks of the good Senator from Androscoggin, Senator Clifford. It certainly is within our prerogative and it is appropriate for us, if we desire, to codify the decision of the court. I think it is appropriate for us to do it, if we feel that we are more conversant with all the problems in this area than the court is. And if this body feels that it is better able to fix this policy, if it feels more confident in this area of defining exactly when we will allow the filing of these cases and what the ramifications will be, then I think the ought to pass report ought to be accepted. But if this body feels as I do, that

the court is probably more conversant in these areas and should be left complete flexibility, then I think we should vote for the motion pending.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Cumberland, Senator Merrill, that the Senate accept the Ought Not to Pass Report of the Committee. A division has been requested. As many Senators as are in favor of accepting the Ought Not to Pass Report of the Committee will please rise in their places until counted. Those opposed will please rise in their places until counted.

A division was had. Nine having voted in the affirmative, and 20 having voted in the negative, the motion did not prevail.

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

Reconsidered Matter

On motion by Mr. Hichens of York, the Senate voted to reconsider its prior action whereby on Bill, "An Act Relating to the Use of Leg Hold Traps under the Inland Fish and Game Law", (H. P. 400) (L. D. 489), the Minority Ought Not to Pass Report of the Committee was Accepted in non-concurrence.

The same Senator then moved that the Senate accept the Majority Ought to Pass Report of the Committee.

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

Mr. CONLEY: Mr. President and Members of the Senate: Apparently it is time that some member of the committee got up to explain the bill. So far this morning we have accepted the Minority Ought Not to Pass Report, and now we are considering the Majority Report. I wonder if some member of the Committee might like to get up and enlightend the Senate as to what the bill is all about.

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question through the Chair that any Senator may answer if he so desires.

Mr. McNALLY: Mr. President and Members of the Senate: This bill is a bill that proposes that if you are out trapping, and you have a trap that you are setting to catch game or coyote, or something that is hard to hold, that they have sort of a bunch of teeth that you can put around the jaws of the trap. Now, the sponsor of this bill claims that these teeth are as sharp as a knife and, to be sure, it holds the game all right, but it inflicts quite a wound on the leg of the animal, and so forth. And in case it was somebody's pet cat or dog, it would be a bad thing for it, and I suppose that is the thinking on it.

The trappers that trap for coyotes and other hard to hold game maintain that if they could be allowed to keep these teeth, which they buy and clamp around the jaws of the trap, that they can use a smaller trap than if they can't use the teeth.

Now, since I personally knew one of the trappers that testified and believed in what he said, I signed the bill Ought Not to Pass. Another thing this trapper stated is that, in case this bill is passed, that the trappers, in order to catch the animals they are catching now, will have to buy larger traps and use them. He also stated that he hasn't been able to buy any bigger traps due to the steel shortage, which if you were in the contracting business you would realize very quickly, and he didn't

know where they would get any larger size traps.

I have stated why I signed it, and I have stated exactly what the bill does. The bill says that if you are trapping, and you have got a trap that is a little small for some of the animals that might be in it, you can put some teeth on each of the jaws and perhaps catch a bigger animal.

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

Thereupon, on motion by Mr. Pray of Penobscot, tabled and Tomorrow Assigned, pending the motion by Mr. Hichens of York that the Senate Accept the Majority Ought to Pass Report of the Committee.

Second Readers

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

House — As Amended

Resolution, Proposing an Amendment to the Constitution to Provide Single Member Districts for the House of Representatives. (H. P. 19) (L. D. 27)

Bill, "An Act Providing for the Designation of Anatomical Gifts on Motor Vehicle and Motorcycle Operators' Licenses." (H. P. 102) (L. D. 109)

Bill, "An Act to Allow Municipalities to Permit the Sale of Malt Liquor in All Restaurants, Class A Taverns and Taverns on Sundays." (H. P. 338) (L. D. 421)

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

Senate

Bill, "An Act to Create a Law Enforcement Education Section within the Criminal Division of the Department of the Attorney General." (S. P. 141) (L. D. 444)

Bill, "An Act Relating to the Sale of Vinous Liquors in Original Containers." (S. P. 183) (L. D. 584)

Which were Read a Second Time and Passed to be Engrossed.
Sent down for concurrence.

Senate — As Amended

Bill, "An Act to Provide for Renewal of Notary Public and Justice of the Peace Commissions." (S. P. 116) (L. D. 381)

Bill, "An Act Relating to Possession of Intoxicating Liquor by Persons under 18 Years of Age in On-sale Premises." (S. P. 181) (L. D. 582)

Which were Read a Second Time and Passed to be Engrossed, as Amended.
Sent down for concurrence.

Enactors

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

An Act Combining the Towns of Yarmouth and North Yarmouth as One Municipality for Shellfish Conservation Purposes. (H. P. 70) (L. D. 82)

An Act to Change the Name of Department of Inland Fisheries and Game to Department of Inland Fisheries and Wildlife. (H. P. 413) (L. D. 588)

On motion by Mr. Huber of Cumberland, the above two bills were tabled and Tomorrow Assigned, pending Enactment.

An Act to Permit Insurers to Limit Liability on Accident Policies in Certain Situations. (H. P. 24) (L. D. 32)

The PRESIDENT: The Chair recognizes

the Senator from Kennebec, Senator Reeves.

Mr. REEVES: Mr. President, I would ask for a roll call and would like to speak to it.

The PRESIDENT: A roll call has been requested. The Senator has the floor.

Mr. REEVES: Mr. President and Members of the Senate: I would like to make one more attempt on this bill, feeling as I do that the bill is without any value to the state. A constituent of mine from Boothbay Harbor asked before I came up here in January to try to hold down the number of bills that we do pass, and I know that is a difficult task, but I think in this case we can make some effort.

This bill is here because one day one person went to an airport and before boarding a plane got nervous and wanted to buy some flight insurance for that particular flight, which is not sold in Maine airports because insurance companies do not want to sell it. It is not profitable and, in my opinion, it is not desirable.

This bill will not force insurance companies to operate these slot machines in the airports. It is without any value, and I just urge the Senate to take this action in the interest of fewer laws, fewer unnecessary laws.

I am sorry to see that my colleague, Senator Katz, is not here. He has brought up the excellent point that the airline pilots don't want to see this kind of insurance sold.

There is insurance for airplane travel, and those people who travel on a regular basis have this insurance. It is cheaper and it is more comprehensive. We just don't need these slot machines. Of course, as I pointed out before, this bill will not change the situation as to the availability of flight insurance.

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

Thereupon, on motion by Mr. Speers of Kennebec, tabled and Specially Assigned for March 18, 1975, pending Enactment.

An Act to Abolish the State-wide Central Tumor Registry of the Department of Health and Welfare. (H. P. 283) (L. D. 335)

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

Resolve, Reimbursing Certain Municipalities on Account of Property Tax Exemption of Veterans. (H. P. 293) (L. D. 346)

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

Emergency

An Act to Provide Continuing Jurisdiction over Juvenile Offenses. (H. P. 321) (L. D. 393)

This being an emergency measure and having received the affirmative votes of 30 members of the Senate, was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

Emergency

An Act to Clarify the Maine Consumer Credit Code as it Applies to Consumer Credit Sales Pursuant to which no Finance Charge is Made. (H. P. 303) (L. D. 366)

This being an emergency measure and having received the affirmative votes of 29

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

Emergency

An Act to Extend the Life of the Commission Preparing a Revision of the Probate Laws. (H. P. 235) (L. D. 291)

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

Orders of the Day

The President laid before the Senate the first tabled and Specially Assigned matter:

House Reports — From the Committee on Fisheries and Wildlife — Bill, "An Act Relating to Transporting Deer in Open View." (H. P. 344) (L. D. 428) — Majority Report — Ought to Pass; Minority Report — Ought Not to Pass.

Tabled — March 6, 1975 by Senator Pray of Penobscot.

Pending — Consideration.

(In House — Majority Ought to Pass Report accepted and Passed to be Engrossed.)

(In Senate — Minority Ought Not to Pass Report accepted in non-concurrence.)

Mr. O'Leary of Oxford moved that the Senate Insist.

Mr. Graffam of Cumberland then moved that the Senate Recede and Concur.

On motion by Mr. O'Leary of Oxford, a division was had. 11 having voted in the affirmative, and 18 having voted in the negative, the motion did not prevail.

Thereupon, the Senate voted to Insist.

The President laid before the Senate the second tabled and Specially Assigned matter:

Bill, "An Act Relating to Bonding of Gasoline Distributors and Use Fuel Dealers." (H. P. 511) (L. D. 573)

Tabled — March 6, 1975 by Senator Speers of Kennebec.

Pending — Consideration.

(In Senate — Passed to be Engrossed.)

(In House — Passed to be Engrossed as amended by House Amendment "A" (H-42) in non-concurrence.)

On motion by Mr. Speers of Kennebec, the Senate voted to Recede from its former action whereby this Bill Passed to be Engrossed.

The same Senator then moved that the bill and all accompanying papers be Indefinitely Postponed.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President and Members of the Senate: I rise to support the motion of the Senator from Kennebec, Senator Speers, and I would like to say just a word about my reasons.

This is not a bill of great amount. It was inspired by the Bureau of Taxation because of some difficulty in collecting the taxes from certain gasoline distributors. I understand in general the experience of the bureau has been very good in this respect and they are to be commended for attempting to make their record even better. However, this bill requires 380 small businessmen in the State of Maine to either furnish corporate surety bond or to file a financial responsibility statement showing that they have a net worth in excess of three months worth of taxes that they would normally pay.

The principle that bothers me about this

bill is that many of us in the State of Maine owe taxes to the state from month to month and from quarter to quarter. And if we are to start with the gasoline distributors and the use fuel dealers, it seems to me that logically we should proceed to the grocer, the department store owner, and eventually to every taxpayer who accumulates any sizable amount of tax liability to the state. It is this simple principle that bothers me about this bill because it is another one of these bills creating more paperwork and more fees for businessmen because of the poor performance of one or two individual businessmen in the State of Maine, and therefore I support the pending motion.

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

Mr. MERRILL: Mr. President, I would like to ask that the Secretary read the committee report on this bill.

The PRESIDENT: The Secretary will read the report.

The SECRETARY: The Committee on Taxation, to which was referred the bill, "An Act Relating to Bonding of Gasoline Distributors and Use Fuel Dealers", H. P. 122, L. D. 142, have had the same under consideration and ask leave to report that the same ought to pass in new draft, H. P. 511, L. D. 573, signed by Sidney D. Maxwell of Jay for the Committee.

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

Mr. MERRILL: Mr. President and Members of the Senate: This being an unanimous report, I would ask that there be a division and the motion be defeated.

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

Mr. WYMAN: Mr. President and Members of the Senate: This bill was before the Taxation Committee. It was a department bill, and I must admit at the time it seemed all right. Since the bill came out of committee, I have discussed it and, like the good Senator from Knox, this does bother me and I have changed my opinion on it. I don't think it is a particularly important bill, but I think it is just one more bill to bail bureaucracy out because they were careless. They allowed one large dealer to have a bill of something like 90 thousand dollars which was unpaid, and this is what caused it all. I must say that I can't be concerned about this bill and it is all right with me if we kill it.

The PRESIDENT: The pending motion is the motion of the Senator from Kennebec, Senator Speers, that this bill, L. D. 573, and all its accompanying papers be indefinitely postponed.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: Since I made the motion, I think that I should make some explanation. I honestly did not give very much attention to this bill until this morning when the good Senator from Knox, Senator Collins, came to my office to talk with me about it. I found the arguments that he made very persuasive in that really all this bill is attempting to do is to single out a specific segment of our society and require of that segment that it file a bond to pay their taxes. So that if their taxes are not paid that the bond could be called upon in order to pay them. Really it would be precisely like asking you and I as individuals to file a bond with the State Bureau of Taxation that we are to pay our

income taxes for this year so that the State Bureau of Taxation would have some recourse should we neglect to pay our income taxes.

I think the arguments of the good Senator from Knox were very persuasive when he questioned why one single segment of society ought to be singled out for this kind of treatment when obviously others also have to pay taxes, income taxes, excise taxes, sales taxes, and they are not required to file bonds to insure that those taxes are paid. So that is the reasons I made the motion to indefinitely postpone.

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

Mr. MERRILL: Mr. President and Members of the Senate: With all due respect to the Majority Leader and the position he has put forward here, I think there might be a slight difference between this situation and the situation of the average taxpayer. The most important difference to us, if we are going to be responsible in this matter, is that sometimes there is a great deal of money involved here. There is a great deal of loss of revenue in these individual cases although, of course, they are few, and although most of these citizens and these corporate citizens are responsible. But when they are not, there is a loss of revenue. And if there is no bond to protect that loss, then that loss is covered by everybody in the state.

There is one other difference. I don't think this is really comparable to a situation of asking an individual to post a bond. With the individual, the only monies that are being concerned with are the individuals that that person is liable for. I think it might be accurate to describe this situation as a situation where this person is holding money that in essence has been paid on these sales for the state. I think that the state has an absolute right and obligation to see that these state monies that are being held temporarily are protected, and that the other taxpayers of the state don't have to pick up the burden when somebody runs off and doesn't meet their obligation. In the past some of these have been quite high.

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

Mr. SPEERS: Mr. President and Members of the Senate: I feel compelled to discuss this further. With all respect to my colleague from Cumberland, Senator Merrill, perhaps there is a difference in a corporation and an individual, but I would point out that individuals in filing quarterly tax returns do hold money that belongs to the state, and corporations in filing sales tax returns do hold money that belongs to the state, and these are required to be filed monthly and we are not requiring of every corporation in the State of Maine that pays a sales tax to the state to file a bond.

I would point out as well, although I was not at the hearing that heard this bill, and I could stand to be corrected by those that did hear the bill, but it is my understanding that there was one particular case that was the trigger on producing this bill. And it would seem to me that there are adequate remedies available to the Bureau of Taxation to enjoin individuals from continuing to be in business and from continuing to run up a high bill or high liability to the State of Maine, if they do not pay their taxes on a monthly basis, and that therefore there

are remedies available. And it seems to me that in this one particular case perhaps the Bureau of Taxation did not use those remedies that it did have available to it. It seems that this is somewhat discriminatory against one particular segment of our society.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Kennebec, Senator Speers, that this bill and all accompanying papers be indefinitely postponed.

The Chair recognizes the Senator from Aroostook, Senator Johnston.

Mr. JOHNSTON: Mr. President, I would ask for a roll call on this motion.

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

Obviously more than one-fifth having arisen, a roll call is ordered. The pending motion before the Senate is the motion of the Senator from Kennebec, Senator Speers, that L. D. 573, "An Act Relating to Bonding of Gasoline Distributors and Use Fuel Dealers", 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 Carboneau, Cianchette, Clifford, Collins, Corson, Cummings, Cyr, Danton, Graffam, Greeley, Hichens, Jackson, Johnston, McNally, O'Leary, Pray, Roberts, Speers, Thomas, Trotzky.

NAYS: Senators Berry E.; Conley, Graham, Merrill, Reeves, Wyman.

ABSENT: Senators Berry R.; Curtis, Gahagan, Huber, Katz, Marcotte.

A roll call was had. 20 Senators having voted in the affirmative, and six Senators having voted in the negative, with six Senators being absent, the Bill was indefinitely Postponed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the third tabled and Specially Assigned matter:

House Report — from the Committee on Natural Resources — Bill, "An Act Authorizing the Department of Environmental Protection to License Privately-owned Septic Waste Disposal Sites." (H. P. 154) (L. D. 209)

Ought to Pass as amended by Committee Amendment "A" (H-47)

Tabled — March 7, 1975 by Senator Speers of Kennebec.

Pending — Acceptance of Report.

On motion by Mr. Trotzky of Penobscot, retabled and Specially Assigned for March 14, 1975, pending Acceptance of the Committee Report.

The President laid before the Senate the fourth tabled and Specially Assigned matter:

Joint Order — Relative to Special Committee to study bidding process of Bureau of Purchases. (H.P. 696)

Tabled — March 7, 1975 by Senator Speers of Kennebec.

Pending — Passage.

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

Mr. SPEERS: Mr. President, I believe

there is an amendment attached to this Joint Order, a House Amendment, and would the Secretary inform the body whether or not that has been presented.

The PRESIDENT: The Senator is correct. The Secretary will read the House Amendment.

House Amendment "A", Filing No. H-49, was Read and, on motion by Mr. Speers of Kennebec, Indefinitely Postponed in non-concurrence.

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

Senate Amendment "A" Filing No. S-25, was Read.

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

Mr. REEVES: Mr. President, is it in order to ask for an explanation of this and how it differs from the House Amendment?

The PRESIDENT: The Senator from Kennebec, Senator Reeves, poses a question through the Chair that anyone may answer if he so desires.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: This amendment represents an effort on the part of leadership to have all of these joint study orders in exact same configuration as they go through the bodies. The House Amendment I don't have a copy of in front of me, but I believe it does not direct the Legislative Council, and through that council one of the committees, to study this particular matter. We have attempted, and we have in the past in this session directed the Legislative Council, and through the council to make the appropriate studies to the appropriate committees and this is just what we are attempting to do with this order as well.

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

Mr. REEVES: Mr. President and Members of the Senate: I have an abiding interest in the competitive bidding process in the state, and I am confused by Senator Speers' explanation. Is it the Legislative Council that is going to study the bidding process? Is it the Joint Standing Committee on Performance Audit? And why is it necessary for the Legislative Council to be involved in this situation? I still don't understand what is wrong with the House Amendment and, if possible, I would like to have that explanation before I move a vote on this.

The PRESIDENT: The Senator from Kennebec, Senator Reeves, poses a question through the Chair to anyone who may care to answer.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: It is not going to be the Legislative Council that actually does the study of this particular matter. It will be the Joint Committee on Performance Audit, as reads in the Senate Amendment which I just offered.

The reason for these orders to go to the Legislative Council is simply that in such a manner the legislature as a whole can retain some control over precisely how many orders are passed and the time that is involved in making these various studies. In the past, in former legislatures there has been a legislative research table and all of these orders were put on the legislative research table, and then at the end of the year we took these orders off the table and decided which ones were to be

passed and which ones would not be passed. Naturally most of them had had good merit and most of them probably should be studied, should have been studied in the past, but all of us only have so much time and we had to pick and choose as to which orders were to be studied and which orders were not to be studied. That procedure has been replaced with the advent of the Legislative Council, and that is the reason for these orders to be referred to the council, and through the council to the various committees to actually have the study done.

I would contemplate that this order would pass through and would be referred to the Committee on Performance Audit to actually do the study.

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

Mr. CXONLEY: Mr. President and Members of the Senate: I share the same concern as the good Senator from Kennebec, Senator Reeves. I am sure the Majority Floor Leader shares the same feelings, but I think what both Senator Reeves and I perhaps at this time are concerned with is whether or not in this particular order, if passed as amended by the Senate Amendment, which I am in agreement with, the Performance Audit Committee is going to undertake this study now, or is it going to be a joint order that is going to be referred to them after Sine Die. I think that is the concern primarily that both Senator Reeves and I have, and I wonder if the Majority Floor Leader may be able to speak to that?

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question through the Chair to the Majority Floor Leader, who may answer if he so desires.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: In answer to the question, I would contemplate that the order would be passed through and the study would be undertaken at the present time.

The PRESIDENT: The pending question before the Senate is the Adoption of Senate Amendment "A". Is this the pleasure of the Senate?

Thereupon, Senate Amendment "A" was Adopted and the Joint Order, as Amended, received Passage in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the fifth tabled and Specially Assigned matter:

Bill, "An Act Relating to Executive Sessions of Public Bodies or Agencies." (H. P. 722) (L. D. 899)

Tabled — March 11, 1975 by Senator Reeves of Kennebec.

Pending — Reference.

(The Committee on Reference of Bills suggested this Bill be referred to the Committee on State Government)

(In House — referred to Committee on Legal Affairs)

On motion by Mr. Speers of Kennebec, referred to the Committee on Legal Affairs and Ordered Printed in concurrence.

The President laid before the Senate the sixth tabled and Specially Assigned matter:

Bill, "An Act to Amend the Charter of the Freeport Sewer District." (H. P. 441) (L. D. 515)

Tabled — March 11, 1975 by Senator Reeves of Kennebec.

Pending — Passage to be Engrossed.

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

Senate Amendment "A", Filing No. S-24, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

(Off Record Remarks)

On motion by Mrs. Cummings of Penobscot,
Adjourned until 10 o'clock tomorrow morning.