

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

Thursday, March 13, 1975

Senate called to order by the President.

Prayer by Rabbi Harold Jaye of Auburn:

God and Father, Ruler of Mankind, to The we turn in prayer. In this historic chamber where those who have been chosen by the people of this great state to formulate laws for the benefit of all meet to carry on this task, we ask Thy guidance for these worthy Senators who are charged with this awesome responsibility. We know that unless Thou build the house, in vain do its builders toil, and that unless Thou guard the city, in vain do the guards keep watch. Only when our laws conform to Thy moral law can they insure our peace. Only when our purposes accord with Thy divine will can our own cause prosper.

Inspire those here gathered to make the public good their personal concern, and endow them with the wisdom and the compassion necessary to work for the benefit of all the people of this state. As Thy world is one in which order reigns, so may our relationships with one another be marked by orderliness effected by truly just and good laws reflecting the ideal justice and goodness. So may these representatives of the people be guided by reference to these ideals as expressed by that most perfect law which Thou did communicate to Thy servant Moses on the summit of Sinai.

Thou did grant us the great fortune of living in a free and blessed country and in a state whose leaders are devoted to high and worthy ideals. We ask that Thy blessing and favor rest upon these Senators and upon all the people of the State of Maine. Amen.

Reading of the Journal of yesterday.

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

Bill, "An Act to Establish the Maine Safe Drinking Water Act." (H. P. 654) (L. D. 812)

In the House February 26, 1975, referred to the Committee on Health and Institutional Services and Ordered Printed.

In the Senate March 6, 1975, referred to the Committee on Public Utilities and Ordered Printed, in non-concurrence.

Comes from the House, that Body having Insisted.

On motion by Mrs. Cummings of Penobscot, the Senate voted to Insist and ask for a Committee of Conference.

**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 NARRAGUAGUS HIGH SCHOOL KNIGHTS

EASTERN MAINE CLASS C 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. 838)

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 JONESPORT-BEALS HIGH SCHOOL ROYALS

EASTERN MAINE CLASS D 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. 839)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

House Papers

Bills and Resolves today received from the House requiring Reference to Committees were acted upon in concurrence.

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

Mr. SPEERS: Mr. President, I would just like to call the attention of the members of the Senate to Item 1-5, Resolve, Providing Funds for the Maintenance of Ocean Beaches, (H. P. 787) (L. D. 975). This particular bill reminds me of some legislation that was around here two years ago, and I would commend it very strongly to the notice of the members of this Senate.

On motion by Mr. Speers of Kennebec, Senate in Recess, pending the sound of the bell.

After Recess

Called to order by the President.

Communications

Edwin H. Pert
Clerk of the House

STATE OF MAINE
One Hundred and Seventh Legislature
House of Representatives
Office of the clerk
Augusta, Maine 04330

March 12, 1975
The Honorable Harry N. Starbranch
Secretary of the Senate
107th Legislature
State House
Augusta, Maine 04333
Dear Mr. Secretary:

The House today voted to Adhere to its action whereby it failed to finally pass

RESOLUTION, Proposing an Amendment to the Constitution Prohibiting Anyone Under Sentence for a Felony from Seeking or Hiding a Constitutional Office. (S. P. 43) (L. D. 95)

Respectfully,
Edwin H. Pert

Clerk of the House

Which was Read and Ordered Placed on File.

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE
04330

March 12, 1975

Members of the Senate and House of Representatives of the 107th Legislature

Honored Ladies and Gentlemen:

I am returning Senate Paper 140 with my disapproval. I am opposed to the Act to change the name of the Bureau of Labor and Industry to the Bureau of Labor. My objections are based on the following factors:

1. I oppose the name change on principle. To me, the present name reflects a proper balance between the needs of labor and industry equally. To eliminate one of the names symbolically destroys that balance. I do not wish to do anything, even if this present matter seems simple, to contribute to the further polarization of our society. The seams of unity have been ripped at enough.

2. I object to the cost factor. No name change can be effected without costs of some kind. At a time of severe economic stringency, I see no justification to impose needless expense, such as letterheads on stationery and documents, signs, seals and whatever logistical apparatus is required to change the name of a Department of Government.

3. Labor and industry are mutually dependent upon each other for the wellbeing of both and of society as a whole. Administrative functions of this division include activities in both labor and industry. To eliminate industry from the title ignores those functions applicable strictly to the industrial sector of Maine's economy.

4. Society is full of disruptions. I see no present need for this change at this time. Governmental reorganization will be untaken in a comprehensive way in the next session and I urge this legislature to defer this matter to a future date, when its effects can be considered in relation to the whole. Senate Paper 140 is not desirable, in my opinion, and I urge that my disapproval be sustained.

Respectfully,
James B. Longley
Governor of Maine

Which was read and Ordered Placed on File.

S. P. 140 — L. D. 443 — "AN ACT to Change the Name of the Bureau of Labor and Industry to the Bureau of Labor"

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

Mr. CURTIS: Mr. President, I move enactment of L. D. 443, and would speak to my motion.

The PRESIDENT: The Senator has the floor.

Mr. CURTIS: Mr. President and fellow members of the Senate: This legislative document is the result of some consideration by a bill heard by the Joint

Committee on State Government. The recommendation that it be enacted was the unanimous recommendation from the State Government Committee after a public hearing in which there were no opponents who appeared.

The proposal for the change of the name is largely symbolic. There is no change at all in the functions of the Bureau of Labor and Industry if the name gets changed to the Bureau of Labor.

This particular proposal happens to be in the Republican platform, which I would like to read from briefly, under the section on Labor and Industry: Diligent and honest working people are one of Maine's greatest assets. To provide and assure a respectable livelihood reflecting the true needs of these citizens, we recommend in recommendation No. 4 the change of the name of Bureau of Labor and Industry to the Bureau of Labor. It is a proposal which the working people and their organizations in this state are interested in and would like to see enacted.

The cost has been raised as a question, and I would like to respond briefly to that. We already have enacted a similar bill. It is now Public Law Chapter 13 of the Laws of 1975, and it is an act to change the name of the Department of Military, Civil Emergency Preparedness and Veterans Services to the Department of Defense and Veterans Services. As I explained when that particular bill was before the Senate, the name change was largely symbolic and cosmetic and made things a little bit simpler. That bill, of course, was enacted by both branches of the Legislature and signed by the Chief Executive.

At the time we heard three of these bills in the same kind of category of name changes, we listened to the heads of departments and other people who are concerned indicate that they would be able to use up all of the stationery that presently has been printed and that there would be no wastage of material. So I think that is clearly the intent of the Legislature.

In the past we have changed other names for largely symbolic reasons, such as changing the name of the old state hospitals to mental health institutes, and the people who are concerned with the services provided by those state organizations feel more comfortable when the names are more appropriate to the services rendered. So I think for all of these reasons we should vote in favor.

The PRESIDENT: The question now before the Senate is: Shall this bill become law notwithstanding the objections of the Governor? According to the Constitution, the vote will be taken by the "Yeas" and "Nays". A vote of "Yes" will be in favor of the bill; a vote of "No" will be in favor of sustaining the veto of the Governor. Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, would you please pose the question to the Senate again?

The PRESIDENT: The pending question is: Shall this bill become law notwithstanding the objections of the Governor? A vote of "Yes" will be in favor of the bill; a vote of "No" will be in favor of sustaining the veto.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Berry, E; Cianchette, Clifford, Collins, Conley, Corson, Cummings, Curtis, Cyr, Danton, Gahagan, Graffam, Graham, Hichens, Huber,

Jackson, Johnston, Marcotte, McNally, Merrill, O'Leary, Pray, Reeves, Speers, Thomas, Wyman.

NAYS: Senators Berry, R; Greeley, Katz, Roberts, Trotzky.

ABSENT: Senator Carbonneau.

A roll call was had. 26 Senators having voted in the affirmative, and five Senators having voted in the negative, with one Senator being absent, the Bill became law notwithstanding the objections of the Governor.

Sent down for concurrence.

Senate Papers

Local and County Government

Mr. Reeves of Kennebec (Cosponsor: Mr. Roberts of York) presented, Bill, "An Act to Require Municipalities in Certain Situations to Pay Liability on the Part of Operators of Fire Department Vehicles." (S. P. 304)

Which was referred to the Committee on Local and County Government and Ordered Printed.

Sent down for concurrence.

Orders

On motion by Mr. Speers of Kennebec,
STATE OF MAINE

In Senate March 13, 1975

ORDERED, the House concurring, that the Secretary of the Senate and Clerk of the House jointly prepare the Senate and House Registers and that 10,000 copies be printed for the use of the Legislature. (S. P. 305)

Which was Read and Passed.

Sent down for concurrence.

On motion of Mr. Hichens of York,
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 Mrs. Edward Kelley of Eliot for her Heroic Lifesaving Act and Deed

We the Members of the Senate and House of Representatives 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.

(S. P. 306)

Which was read.

The PRESIDENT: The Senator has the floor.

Mr. HICHENS: Mr. President and Members of the Senate: There are sometimes events that happen that are not brought to our attention until many months after they do happen, but the occasion of this order was presented to me by the President of the Boy Scouts of America, Pine Tree Council, and is in concurrence with an award which is going to be made by the Town of Eliot to Mrs. Kelly at their annual town meeting. They felt it was very fitting that an observance or recognition should be granted Mrs. Kelly for this same occasion of her heroic deed. I would like to read this in conjunction with the order which you have before you this morning:

"On Friday, July 27, 1973, Mrs. Edward

Kelly was responsible for saving a young boy's life by using mouth to mouth resuscitation.

"At approximately 4:15 that afternoon Patrick Kelly, age 10, and a campsite friend went on the dock at Bartlett's Campground, Belgrade, Maine. The boys noticed a youngster in the water behind the last row boat tied to the dock and saw that he was face down and not moving. Patrick immediately called for his mother, who was at their campsite quite near the entrance of the dock, while his friend ran to the main office to inform the owners of the campground.

"Mrs. Kelly ran to the dock just as Mrs. Smith, the boy's mother, arrived at the dock. Mrs. Smith jumped into the water and lifted her son as high as she could to Mrs. Kelley. Mrs. Kelly immediately cradled the boy and allowed his head to go back in the proper position. The youngster was limp and showed no sign of life at that time.

"After administering mouth to mouth for a short time, the boy began coughing and vomiting. Mrs. Kelly turned him sideways to allow the water to come out freely without blocking his breathing passage.

"Mr. Ackerman at this point bundled the boy in a blanket and took him and his mother to a Waterville Hospital. The boy was retching quite heavily and the hospital kept him for observation as there were signs of blood from his stomach.

"Later that evening the deputy sheriff and Mr. Ackerman both credited Mrs. Kelly's fast action and knowledge of mouth to mouth resuscitation with saving the boy's life.

"Mrs. Kelly has had the Red Cross First Aid Training, Seaward Construction Company's Training on Resusci-Andy, and refresher training at the Boy Scout First Aid meetings. She is a former Cub Scout Den Mother, has two boys in Boy Scouts at present, and is currently on the Boy Scout Committee and is Treasurer of Troop 340, Eliot, Boy Scouts of America."

The PRESIDENT: Is it now the pleasure of the Senate that this order be passed?

Thereupon, the Order received Passage.

Sent down for concurrence.

Committee Reports

House

Ought to Pass

The Committee on Taxation on, Bill, "An Act Designating the Bureau of Taxation as the State Revenue Bureau and to Correct Errors and Inconsistencies in the Property Tax Laws." (H. P. 110) (L. D. 156)

Reported that the same Ought to Pass.

The Committee on Taxation on, Bill, "An Act to Eliminate Certain Sales Taxes to Patients in Hospitals."

Reported that the same Ought to Pass.

The Committee on State Government on, Bill, "An Act Relating to Nepotism in State Hiring and Promotional Practices." (H. P. 615) (L. D. 728)

Reported that the same Ought to Pass.

The Committee on State Government on, Bill, "An Act Placing the Secretary to the Attorney General in Unclassified Service of State Government." (H. P. 419) (L. D. 505)

Reported that the same Ought to Pass.

The Committee on Appropriations and Financial Affairs on, Bill, "An Act Authorizing the Bureau of Forestry to Provide Funds to the Penobscot and Passamaquoddy Tribes to Procure Shade Trees." (H. P. 526) (L. D. 643)

Reported that the same Ought to Pass.

Come from the House, the Bills Passed to be Engrossed.

Which reports were Read and Accepted in concurrence, the Bills Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Judiciary on, Bill, "An Act to Protect Physicians Engaged in Peer Review." (H. P. 174) (L. D. 204)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-50).

The Committee on Transportation on, Bill, "An Act Relating to Change of Location or Status Concerning Vehicle Registrations." (H. P. 459) (L. D. 562)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-60)

Come from the House the Bills Passed to be Engrossed as Amended by Committee Amendment "A".

Which reports were Read and Accepted in concurrence and the Bills Read Once. Committee Amendments "A" were Read and Adopted in concurrence and the Bills, as Amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Taxation on, Bill, "An Act to Reduce the Annual District Tax on Maine Forestry District Property Due to Increased Valuation." (H. P. 373) (L. D. 467)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 833) (L. D. 960)

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

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

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act Relating to the Authority of Bail Commissioners." (H. P. 263) (L. D. 310)

Reported that the same Ought Not to Pass.

Signed:

Senators:

COLLINS of Knox
CLIFFORD of Androscoggin
MERRILL of Cumberland

Representatives:

HUGHES of Auburn
HENDERSON of Bangor
MISKAVAGE of Augusta
BENNETT of Caribou
HOBBINS of Saco
SPENCER of Standish

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-61).

Signed:

Representatives:

McMAHON of Kennebunk
HEWES of Cape Elizabeth
PERKINS of South Portland
GAUTHIER of Sanford

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

Which reports were Read.

Mr. Clifford of Androscoggin moved that the Senate accept the Majority Ought Not to Pass Report of the Committee.

Mr. Hichens of York then requested a division.

The PRESIDENT: The Chair recognizes

the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: This bill relates to the authority of bail commissioners, and I think it stems from a misunderstanding of the purpose of bail.

The purpose of bail, as I understand it, under the current law is to insure someone's appearance at a trial. It is not to punish an individual; it merely is to provide some kind of guarantee that the person will show up for his or her trial.

There was no evidence introduced at the hearing that the present bail statute is not working. There was no evidence introduced to show that people are not showing up for their trials or skipping bail.

The proponents of the bill, I think, are under a misapprehension of the purpose of bail. They are attempting to use bail as a method of punishment for individuals. The bill changes the authority of the bail commissioner and gives that authority to a judge of the district or superior court. There was no evidence to indicate that the results would be any different if the bail were set by a judge of the district court or a justice of the superior court.

The present bail statute sets out the standards under which a bail commissioner operates to set bail. It sets out that the bail commissioners consider the nature of the offense, the residence where the person lives, his likelihood of appearance, and whether or not there is a possibility that he would forfeit the bail. There is a separate offense now under Maine law for forfeiture of bail. That is a separate offense besides the offense for which a person is charged.

I think it is a mistake to begin to use bail as a method of punishment. I think that if people are concerned about the crime rate, and they certainly should be, that they should get some input into the Maine Criminal Code which this legislature is considering and is presently before the Committee on Judiciary. That is how they should attack crime. They should not attack crime by tampering with bail, concerning which there is no evidence that it is being misused or that it is being violated.

I hope that you would accept the report of the majority of the Committee on Judiciary, the one which was signed by all three Senate members, the Ought Not to Pass Report. Thank you, Mr. President.

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

Mr. HICHENS: Mr. President and Members of the Senate: I was the sponsor of the original law that allowed people to have personal recognizance in lieu of bail and so forth, and this bill is in conjunction with that. The state police have contacted me as to the importance of this bill, and the amendment clarifies it to a great extent, which I would like to share with you.

It says, "The purpose of this amendment is to limit the operation of the bill for those cases where the person under arrest is accused of committing a bailable, felonious offense while the said person was on probation or parole from a previous sentence or a felony conviction or is on bail pending trial for the alleged commission of a prior felony offense."

This is for the protection of the people. If this person is out on bail, he is a danger to the community and people are naturally concerned, and until the time comes up for the court case I very definitely feel he should not be allowed to be out on bail, unless the judge feels that it is worthy of granting.

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

Mr. CONLEY: Mr. President and Members of the Senate: I rise to support the good Senator from Androscoggin, Senator Clifford. I think he has spelled out very accurately the way the bail statutes are currently set up.

The court itself has taken a very strong interest and is holding seminars around the state educating bail commissioners more so today than ever before. I don't think that this state has yet arrived at being a police state, and if there is one thing that sort of irritates me, it is when the state police or any other police organization organizes, in effect, to try to produce this type of legislation that really does encourage a police state.

I think we all have to remember, regardless, the one fact that when a person is brought under arrest that he is still innocent in the eyes of everyone until he has been brought to court. All we have to do is go to court and watch some of the procedures that go on there and we find that many people are found not guilty. Under the proposed statute being presented, one would be incarcerated until his appearance in court, and I think that there may be a real constitutional problem myself.

I would urge the Senate to accept the Majority Ought Not to Pass Report.

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

Mr. CURTIS: Mr. President, I would like to pose a question to anyone who might care to answer. The question has to do with the last part of the first sentence in Section 5547. The thrust of the first sentence seems to be to place upon the bail commissioner the obligation not to admit to bail any person under arrest for a bailable criminal offense. And then it says, "while the person charged was on probation or parole from a previous sentence on a felony conviction." My question is this: what happens if the bail commissioner has no way of knowing whether that person is on parole, or is there some way of knowing? If there is no way of knowing, is there any kind of penalty on the bail commissioner for making an honest mistake?

The PRESIDENT: The Senator from Penobscot, Senator Curtis, has posed a question through the Chair to any Senator who may answer if he so desires.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: This was, I think one of the many problems with the bill. In the way it would work it would be difficult to administer because it would be difficult in some instances to get a person, especially in the rural areas, before a district or superior court judge, and those rural people would be punished more than the people in the urban areas where the courts are more accessible.

There would be a burden on the bail commissioner to determine whether a person was under conviction of a felony or on probation or parole, and he would not necessarily have at his disposal the means to find that out. I think what it would do is put an extra burden on the judges, both in the district court and the superior court, and I think that with the evidence that we have heard for court reform and the need for better administration of justice, that this is not the direction in which we should be going.

It seems to me we have bail

commissioners and, again, there is no evidence at all that people are not showing up for trials, which is the purpose of bail. The present bail statute is working adequately and, in my opinion, and I think in the opinion of the Committee on Judiciary, there is no reason to put an extra burden on the judicial system, which burden is unnecessary and would merely clog the courts. Thank you, Mr. President.

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

Mr. ROBERTS: Mr. President and Members of the Senate: I agree with the good Senator from Androscoggin, Senator Clifford, that the purpose of bail is simply to provide for the appearance of the person charged at the time and place where the hearing is to be held. However, I would like to point out to this body that I perhaps am the only one here who was on Legal Affairs last session when we went around the state and had different hearings before the public, and one of the large complaints, one of the very frequent complaints, was that so many of the crimes are being committed again and again by the same person, and in many many instances while that person is either on probation or actually on bail waiting for a hearing to come up on an offense that he has previously committed.

If you stop and realize, thievery and breaking and entering is probably one of the fastest growing crimes, especially in rural Maine here. The answer is money. Of course, there are a lot of reasons for getting money, and the dope business is probably the worst reason we have and the most compelling for a lot of people. But also, frankly, if somebody has no money, and this is usually the situation, and they are on bail or they are about to come up for a hearing, they feel they need money to hire a lawyer, they need money to pay their fine, and so forth, so they get it the only way they have been getting money up to this point, and that is by stealing. So, in turn, it encourages or feeds on itself, if you want.

I want you to realize that it is a serious problem, and I hope that many of you will take the time to go before the hearings of the Judiciary Committee on the Criminal Code and see if we can't in some way foster what I think is on the books, which is never used or practically never used, and that is the forfeiture of bail. People go out on bail and they are practically never brought in and have their bail withdrawn, and it could be that through that vehicle we could keep some of these people incarcerated, or at least protect the public, because I am sure the public feels that they are not being protected. And one of the reasons is because they feel that it is too easy for people who are either on probation or are charged with an offense to be out in public committing additional offenses.

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

Mr. MERRILL: Mr. President and Members of the Senate: I would just like to make one further point in the discussion of this bill. I know that many of the Senators here would be anxious to make a statement about how much they are concerned about the problem of somebody being out pending trial and then committing another crime. I know that concern is felt by many of the members here, and they share that concern because it is held by the members of the public. But there are many bills that will give the

Senate a chance to look at that problem and to think about it some, and one of those is the problems that will be coming before this legislature that deal with improving our court system and streamlining our court system so that we can get these trials going faster and so that we can have a determination of guilt, if the person is in fact guilty, at a much sooner time.

I think that this bill is a bad vehicle to accomplish that. I think it would cause more problems than it would solve. Certainly a person has a right to bail under most circumstances under our law, and putting the decision on the judge would just make some more problems at that end of the spectrum, I think, and it might in fact in certain circumstances make problems for the people that were holding the person because they would have to get him before somebody in order to have a determination made, and that may in fact end up increasing the costs of our sheriff departments.

So I think this is a bill based on a good idea, and maybe based on a real problem in some respects, but a bill that won't accomplish what it seeks out to do, and luckily I think for this legislature, we are going to have a chance to deal with the real problem later on.

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

Mr. HICHENS: Mr. President, I want to thank all of these Senators who have spoken and expressed the implications of this bill, so I will withdraw my request for a division.

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

Mr. Katz of Kennebec requested a division, and Mr. Wyman of Washington subsequently requested a roll call.

The PRESIDENT: The pending question is the motion of the Senator from Androscoggin, Senator Clifford, that the Senate accept the Ought Not to Pass Report of the Committee. A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of more than one-fifth of those Senators present and voting. Would all those Senators in favor of a roll call please stand in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question is the motion of the Senator from Androscoggin, Senator Clifford, that the Senate accept the Majority Ought Not to Pass Report of the Committee. A "Yes" vote will be in favor of accepting the Majority Ought Not to Pass Report of the Committee; a "No" vote will be opposed.

The Secretary will call the roll.

Roll Call

YEAS: Senators Berry, E; Berry, R; Carbonneau, Cianchette, Clifford, Collins, Conley, Corson, Cummings, Curtis, Cyr, Danton, Gahagan, Graffam, Graham, Greeley, Huber, Johnston, Marcotte, McNally, Merrill, Pray, Reeves, Roberts, Speers, Thomas, Trotzky.

NAYS: Senators Hichens, Jackson, Katz, O'Leary, Wyman.

A roll call was had. 27 Senators having voted in the affirmative, and five Senators having voted in the negative, the Majority Ought Not to Pass Report of the Committee was Accepted in non-concurrence.

Sent down for concurrence.

Divided Report

The Majority of the Committee on Transportation on, Bill, "An Act Relating

to Use of Studded Tires on Motor Vehicles." (H. P. 433) (L. D. 544)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-59).

Signed:

Senators:

GREELEY of Waldo
McNALLY of Hancock
CYR of Aroostook

Representatives:

FRASER of Mexico
WEBBER of Belfast
BINNETTE of Old Town
JENSEN of Portland
WINSHIP of Milo
BERRY of Madison
KAUFFMAN of Kittery
LUNT of Presque Isle

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

Signed:

Representatives:

JACQUES of Lewiston
STROUT of Corinth

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

Which reports were Read.

Thereupon, the Majority Ought to Pass as Amended Report of the Committee was Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted in concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Labor on, Bill, "An Act to Limit the Minimum Wage Exemption for Summer Camp Employees." (H. P. 504) (L. D. 626)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-57).

Signed:

Senators:

ROBERTS of York
McNALLY of Hancock
PRAY of Penobscot

Representatives:

FLANAGAN of Portland
MARTIN of St. Agatha
LAFFIN of Westbrook
BINNETTE of Old Town
TEAGUE of Fairfield
TIERNEY of Durham
TARR of Bridgton
CHONKO of Topsham
SNOW of Falmouth

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

Signed:

Representatives:

SPROWL of Hope

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

Which reports were Read.

Thereupon, the Majority Ought to Pass as Amended Report of the Committee was Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted in concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act to Remove the Town of Medway from the Maine Forestry District." (H. P. 228) (L. D. 284)

Reported that the same Ought to Pass.

Signed:

Senator:

JACKSON of Cumberland

Representatives:

FINEMORE of Bridgewater

DAM of Skowhegan

MAXWELL of Jay

TWITCHELL of Norway

COX of Brewer

IMMONEN of West Paris

MULKERN of Portland

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

Signed:

Senators:

WYMAN of Washington

MERRILL of Cumberland

Representatives:

SUSI of Pittsfield

MORTON of Farmington

DRIGOTAS of Auburn

Comes from the House, the Majority report Read and Accepted and the Bill Passed to be Engrossed as Amended by House Amendment "A" (H-66).

Which reports were Read.

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

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 Providing Emergency Assistance to Needy Families with Children." (S. P. 42) (L. D. 94)

Second Readers

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

House — As Amended

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

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

Senate

Bill, "An Act Requiring the Ramping of Curbs at Crosswalks for Physically Handicapped and Elderly Persons." (S. P. 289) (L. D. 987)

Bill, "An Act Relating to the Filing of Criminal Cases." (S. P. 303) (L. D. 998)

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

Sent down for concurrence.

Enactors

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

An Act to Clarify Questions on Local Option under Liquor Law. (S. P. 79) (L. D. 219)

An Act to Eliminate the 10-day Advance Notice Requirement on License Applications to Sell Liquor at Certain Gatherings. (S. P. 102) (L. D. 357)

(On motion by Mr. Speers of Kennebec, tabled and Tomorrow Assigned pending Enactment.)

An Act to Revise the Statutes Concerning the Board of Bar Examiners. (S. P. 123) (L. D. 409)

An Act to Repeal the Requirement for Railroads Operating in Maine to File Annual Reports of Capital Expenditures with the Department of Commerce and Industry. (H. P. 10) (L. D. 15)

An Act to Clarify the Exemption of Hairdressers Holding Booth Licenses from Eligibility for Unemployment Compensation. (H. P. 202) (L. D. 247)

An Act to Increase Boarding Allowance for Students of Coastal Islands. (H. P. 232) (L. D. 288)

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

An Act to Require the Licensing of Alcoholic Treatment Facilities. (H. P. 683) (L. D. 806)

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

Emergency

An Act to Amend the Law Relating to the Registration of Automobiles. (H. P. 343) (L. D. 427)

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.

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

Bill, "An Act to Permit Archery Hunting Without a License in Certain Cases." (H. P. 255) (L. D. 323)

Tabled — March 11, 1975 by Senator Conley of Cumberland.

Pending — Motion of Senator Graffam of Cumberland to Indefinitely Postpone.

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

Mr. McNALLY: Mr. President and Members of the Senate: Not believing everything we get out of the Department of Fisheries and Wildlife, or Inland Fish and Game, we have asked the Attorney General to rule on this bill, and expect to hear either today or tomorrow. I hope somebody would table this until next Tuesday.

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

Thereupon, on motion by Mr. Pray of Penobscot, retabled and Tomorrow Assigned, pending the motion by Mr. Graffam of Cumberland that the Bill be Indefinitely Postponed.

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

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

Tabled — March 12, 1975 by Senator Speers of Kennebec.

Pending — Reference.

(Committee on Reference of Bills suggests Bill be referred to Committee on Taxation.)

(In the House — Indefinitely Postponed.)

On motion by Mr. Speers of Kennebec, tabled and Tomorrow Assigned, pending Reference to Committee.

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

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

Tabled — March 12, 1975 by Senator Speers of Kennebec.

Pending — Reference.

(Committee on Reference of Bills suggests Bill be referred to Committee on Taxation.)

(In the House — Indefinitely Postponed.)

On motion by Mr. Speers of Kennebec, retabled and Tomorrow Assigned, pending Reference to Committee.

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

House Reports — from the Committee on Fisheries and Wildlife — Bill, "An Act Relating to the Use of Leg Hold Traps under the Inland Fish and Game Law." (H. P. 400) (L. D. 489) — Majority Report — Ought to Pass; Minority Report — Ought Not to Pass.

Tabled — March 12, 1975 by Senator Pray of Penobscot.

Pending — Motion of Senator Hichens of York to Accept the Majority Ought to Pass Report.

(In the House — Passed to be Engrossed.)

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

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

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

Tabled — March 12, 1975 by Senator Huber of Cumberland.

Pending — Enactment.

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

Mr. GRAHAM: Mr. President and Members of the Senate: I move that this Bill be recommitted to the Committee on Legal Affairs, and I would speak to my motion.

This is a poorly written bill. What more can I say about it? It singles out one town for special treatment and singles out another town for special exploitation. Let me read to you part of a letter I received from the Attorney General's Office on this bill.

First, it is not clear in the act how much joint jurisdiction is to be exercised. That act establishes no mechanism through which the towns would regulate the taking of shellfish. I am advised by James Gagan, Attorney, of North Yarmouth, that the towns have differing forms of government; Yarmouth having a town council, and North Yarmouth having selectmen and a town meeting form of government. There being absent some mechanism established under this act, it appears that any ordinance enacted under section 4252 must, in order to be effective, be enacted by both towns in the same form. Such joint jurisdiction effectively gives one town a veto over all shellfish regulations enacted by the other.

Second, L. D. 82 goes further than the opinion of the Attorney General in that it prohibits either municipality from regulating shellfish, even on a non-discriminatory basis, without the approval of the other. For example, under the bill Yarmouth may not limit the amount of shellfish taken by residents and non-residents alike without the approval of

an enactment of identical ordinances by North Yarmouth. Any regulation, including regulation on the amount, size, time and place of harvesting, as well as licensing requirements, must have the concurrence of both municipalities, and so forth.

I do not say that this bill is unconstitutional. It is a bill that will defeat its own purpose; that is, shellfish conservation, for clearly these two towns will find it almost impossible to get together for shellfish conservation under this act. Furthermore, the bill grants to one inland town what many people think should be granted to all inland towns in Maine; namely, access to the clam flats of the Maine coast.

Therefore, I move this bill be recommitted to the Committee on Legal Affairs. Thank you.

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

Mr. HUBER: Mr. President and Members of the Senate: The Attorney General's opinion read by the good Senator from Cumberland, Senator Graham, points out that there are no constitutional problems, there are no home rule problems, and essentially says that any regulation on shellfishing must have the concurrence of both municipalities. As you may remember it, these towns were originally one town. The rights to the shellfishing were retained by North Yarmouth, and they are retained in the Yarmouth charter presently. They were inadvertently, I feel, abrogated by the legislature in 1951, and I think we should restore these rights to North Yarmouth. I hope you will defeat the motion to recommit this to the committee and will enact this legislation.

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

Mr. CORSON: Mr. President and Members of the Senate: I rise as the Chairman of the Committee on Legal Affairs to oppose the motion to recommit this bill. We have been through this before and we studied the bill at great length. We have studied since the bill has been reported out the various opinions from the Attorney General's Office.

I have discussed this matter with my colleagues on the committee, and it is our opinion that there is nothing here, there is no problem raised that cannot be solved by these two towns. There is absolutely no reason in the world why these two towns cannot get together and face their problem and reach a mutually acceptable solution.

I feel it is not the province of this legislature to detail for each town what procedures they are going to have to follow to any great degree; that is what they have town governments for. We have a little more faith in the governments of these towns than perhaps other members of this body have.

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

Thereupon, on motion by Mr. Graham of Cumberland, a division was had. 15 having voted in the affirmative, and 16 having voted in the negative, 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.

(See action later in today's session)

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

Bill, "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)

Tabled — March 12, 1975 by Senator Huber of Cumberland.

Pending — Enactment.

Thereupon, on motion by Mr. Huber of Cumberland, placed on the Special Appropriations Table.

Mr. Collins of Knox was granted unanimous consent to address the Senate:

Mr. COLLINS: Mr. President and Members of the Senate: This week and for the next two weeks the Committee on Judiciary is conducting extensive hearings on the proposed Maine Criminal Code. You have heard mention of this this morning from other members of the committee. We expect that the committee will make several changes in the bill as drafted.

I think I do not need to mention to you that the drafting of criminal statutes is a very specialized type of drafting. We have available to the committee later this week and next week a draftsman of unusual ability. The committee is suggesting to members of the Senate, if they have particular changes in the code that they would like to see explored, that they contact a member of the committee or that they submit their ideas to the committee or its staff so that the drafting done by highly qualified people may be accomplished seasonably and the matter considered in the committee.

It would be a very difficult and unfortunate situation if a number of poorly drafted changes were presented on the floor of the Senate, and it will be a great help in the expediting of a very involved and lengthy matter if you can help the committee along by presenting material to us.

In many cases, I think, if you inquire back home of your chiefs of police, your sheriffs, your prosecutors, your defense lawyers, and municipal officials, you will find them wanting one change or another, and we would like to hear from you about this.

We have made an attempt all over the state to have input from the public. It has been good up until now, constructive largely, and we hope for more from members of this Senate and from the other body. Thank you.

Reconsidered Matter

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

Mr. CORSON: Mr. President, I now move that the Senate reconsider its action whereby L. D. 82, Bill, An Act Combining the Towns of Yarmouth and North Yarmouth as One Municipality for Shellfish Conservation Purposes, was passed to be enacted. I would urge the membership to vote against my motion.

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

Mr. Graham of Cumberland requested a division.

Mr. Berry of Cumberland then moved that the Bill be tabled and Tomorrow Assigned, pending the motion by Mr. Corson of Somerset to Reconsider Enactment.

Thereupon, on motion by Mr. Corson of Somerset, a division was had. 18 having

voted in the affirmative, and 13 having voted in the negative, the Bill was tabled and Tomorrow Assigned, pending the motion by Mr. Corson of Somerset to Reconsider Enactment.

(Off Record Remarks)

On motion by Mrs. Cummings of Penobscot,

Adjourned until 12 o'clock tomorrow noon.