

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh
Legislature*

OF THE

STATE OF MAINE

Volume II

May 21, 1975 to July 2, 1975

Index

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Wednesday, June 11, 1975

Senate called to order by the President.

Prayer by Mr. Charles Wyman, President, Bible Society of Maine:

Shall we pray: Gracious, Heavenly Father, we thank You for the opportunity to once again serve You and once again to serve the great State of Maine. We thank You for Senators who have committed themselves to this state, committed themselves to the proper care of our resources, of people and of natural resources. And dear Lord, You promised us that when we approach You for wisdom that You will provide it, and so we ask that for these Senators here today as they delve into the business of the state, we pray for wisdom for them, and we pray in the name of Thy Son, Jesus. Amen.

Reading of the Journal of yeaterday.

Papers from the House

Non-concurrent Matter

Bill, "An Act Creating the Maine Criminal Code." (S. P. 113) (L. D. 314)

In the Senate June 6, 1975, Passed to be Engrossed as Amended by Committee Amendments "A" (S-264) and "B" (S-265).

Comes from the House, Passed to be Engrossed as Amended by Committee Amendments "A" and "B" and House Amendment "B" (H-688), in non-concurrence.

On motion by Mr. Collins of Knox, the Senate voted to Recede and Concur.

Non-concurrent Matter

Bill, "An Act to Enable the Department of Health and Welfare to Conduct a Program to Provide Free Drugs to Elderly Disadvantaged Maine Citizens." (H. P. 1413) (L. D. 1683)

In the Senate June 3, 1975, Passed to be Engrossed as Amended by Committee Amendment "A" (H-472), in concurrence.

Comes from the House, Passed to be Engrossed as Amended by Committee Amendment "A" as Amended by House Amendment "A" (H-708) Thereto, in non-concurrence.

On motion by Mr. Hichens of York, the Senate voted to Recede and Concur.

Non-concurrent Matter

Bill, "An Act Concerning Municipal Property Tax Bills." (H. P. 940) (L. D. 1313)

In the Senate May 29, 1975, Passed to be Engrossed as Amended by Committee Amendment "A" (H-477), in concurrence.

Comes from the House, Passed to be Engrossed as Amended by Committee Amendment "A" as Amended by House Amendment "A" (H-704), in non-concurrence.

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

Non-concurrent Matter

Bill, "An Act to Clarify Certain Provisions in the Education Laws." (S. P. 418) (L. D. 1375)

In the Senate June 5, 1975, Passed to be Engrossed as Amended by Committee Amendment "A" (S-196), as Amended by Senate Amendment "A" (S-269) Thereto, and Senate Amendments "A" (S-232) and "B" (S-238).

Comes from the House, Passed to be Engrossed as Amended by House

Amendment "A" as Amended by Senate Amendment "A" Thereto, and Senate Amendments "A" and "B", in non-concurrence.

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

Non-concurrent Matter

Bill, "An Act to Further the Conservation of Vision." (S. P. 169) (L. D. 556)

In the Senate June 3, 1975, Passed to be Engrossed as Amended by Committee Amendment "A" (S-217).

Comes from the House, Passed to be Engrossed as Amended by Committee Amendment "A" and House Amendment "B" (H-712), in non-concurrence.

Mr. Cianchette of Somerset moved that the Senate Adhere.

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

Mr. BERRY: Mr. President, when the vote is taken, I request that the vote be taken by the "Yeas" and "Nays", and I wish to briefly to discuss the subject before us.

We are all aware that there has been an amendment filed on the bill under H-690. The amendment, all it actually does is that at the present time the license would be approved by the Board of Optometrists, and this amendment includes the Commissioner of Health and Welfare in a check and balance situation. The bill provides that the Department of Health and Welfare designate the specific drugs to be used by the optometrists, but it does not provide that the department play a role in a determination of which optometrists can use the drugs. This amendment requires licensed optometrists who want to use diagnostic drugs to complete a course and pass an examination, not only approved by the Board of Optometry but also by the department. I think it is a fair amendment and I think it is a good amendment.

In previous discussion here it was stated that the optometrists who now graduate from optometry school are qualified, and I have no reason to doubt that. If this is true, then there should be no objections to this amendment.

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

Mr. KATZ: Mr. President, my problem with this amendment is the source and specifically what it seeks to accomplish. I don't think that it is an amendment that is presented with enormous love in our hearts towards turning some qualified professionals loose to do something we should turn them loose to do.

The effect of the amendment is to put the optometrists in a unique position amongst the professionals and put them actually under a lay commissioner, something that we haven't done with our other professionals. Here again the attitude of the Senate should be: Are these qualified professionals? And they certainly are. Are they well prepared? And they certainly are. I can think of no other profession that has more or better continuing education throughout the life of their profession than Maine's optometrists, and on that basis, I would say that this amendment does not get to the real thrust, which is to control and to restrict the activities of the optometrists, and I move indefinite postponement.

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

Mr. GRAHAM: Mr. President and Members of the Senate: It seems to me

that if optometrists are going to prescribe drugs and use drugs that they should be trained in the use of these drugs. Therefore, I think it is only fitting that they should have to take an examination and pass a course in the use of ocular drugs, drugs for the use of the eyes. I move that the Senate recede and concur.

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

Mr. CIANCHETTE: Mr. President, as you probably well remember, and the members of the Senate, this bill has been quite lengthily debated and I think the issues are quite clear. The amendment may have the effect of effectively killing the bill, and I don't think that is what this Senate wants. It is kind of a polite way of saying that optometrists are not going to be allowed to use these two drugs as the bill would now allow because what it does, it puts, you might say, the fox in charge of the chicken coop. It puts the Israeli generals in charge of the Arab troops. This is what we have been talking about on this whole bill and this is what the amendment does.

If you are sincere about allowing this compromise that came out of the committee to pass as a true compromise measure, then you certainly should vote against the motion to recede and concur, and House Amendment "B" should not pass. So I would urge the Senate to vote against the motion to recede and concur.

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

Mr. BERRY: Mr. President and Members of the Senate: I disagree wholeheartedly with my good friend from Somerset, Senator Cianchette, and I disagree with my friend from Kennebec, Senator Katz, on the statements that have been made.

Senator Katz mentioned that he was concerned about the source. I think if you will look at the source of the amendment, you will find that the amendment was offered by the cochairman of the Health and Institution Committee, who had originally voted out of committee that the bill ought to pass. It is my understanding that after a conversation with professionals that that is the reason he offered the amendment. So I think a person is to be complimented if they can realize that there should be a check and balance, even after they have stated themselves in one position, if they are subject to change because someone has shown them that there was a need to go in another direction.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from Cumberland, Senator Graham, that the Senate recede and concur. A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call please rise in their places until counted.

One-fifth having arisen, a roll call is ordered.

The Chair recognizes the Senator from Somerset, Senator Cianchette.

Mr. CIANCHETTE: Mr. President, at the risk of embarrassing the House Chairman that we just heard about that changed his position, I understand now that the same gentleman has reversed his decision again and feels that the bill as a

compromise measure is a proper bill and he would like to support that measure now.

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

Mr. HICHENS: Mr. President and Members of the Senate: I wasn't going to get up and say the words that the good Senator from Somerset has just stated, but I had the same confirmation from the sponsor of this amendment, that he put it on as courtesy for the department, that he hoped that the Senate would adhere to the action and kill the amendment, and I hope you will go along the same way.

What bothers me on this amendment is the fact that the department knew of this bill when it was heard back in February. There was nothing done until after it seemed that one of the committee reports was going to be accepted, and then apparently the opposition has gone scouting around trying to find a way to kill the bill. And I think if this amendment is passed that it is just a measure to kill the whole bill, so I hope you will go along against the motion to recede and concur.

The PRESIDENT: Is the Senate ready for the question? The pending question, before the Senate is the motion by the Senator from Cumberland, Senator Graham, that the Senate recede and concur with the House. A "Yes" vote will be in favor of receding and concurring; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators E. Berry, R. Berry, Clifford, Collins, Curtis, Graham, Huber, Trozky.

NAYS: Senators R. Berry, Carbonneau, Cianchette, Conley, Corson, Cummings, Cyr, Gahagan, Graffam, Greeley, Hichens, Jackson, Johnston, Katz, Marcotte, McNally, Merrill, O'Leary, Pray, Reeves, Roberts, Speers, Thomas.

ABSENT: Senators Danton, Wyman.

A roll call was had. Seven Senators having voted in the affirmative, and 23 Senators having voted in the negative, with two Senators being absent, the motion did not prevail.

Thereupon, the Senate voted to Adhere.

Non-concurrent Matter

Bill, "An Act to Abolish the Defense of Sovereign Immunity in Certain Situations." (H. P. 1297) (L. D. 1568)

In the House June 9, 1975, the Majority report Read and Accepted and the Bill Passed to be Engrossed.

In the Senate June 9, 1975, the Minority Ought Not to Pass report Read and Accepted, in non-concurrence.

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

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

Joint Orders

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 Bulldogs of Lawrence High School State Class B Champions in Track and Field for 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. 1687)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

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 Coach Al Harvie and the Edward Little Varsity Track Team Winners of the Androscoggin Valley Track Championship

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. 1691)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

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 Frederic B. Harlow History Teacher and Baseball Coach upon His Retirement from the Portland School System After 36 Years of Teaching and Coaching

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. 1689)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

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 Edward Little High School Golf Team State 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. 1690)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

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

Ann Turbyne Of Winslow High School Who Set A National School-Girl Shot Put Record Of 51 Feet, 10½ Inches

In The Third Annual Maine Girls State Track And Field Meet

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. 1688)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

State of Maine

One Hundred and Seventh Legislature

House of Representatives

Office of The Clerk

Augusta, Maine 04330

June 10, 1975

The Honorable Harry N. Starbranch

Secretary of the Senate

Maine State Senate

State House

Augusta, Maine 04333

Dear Mr. Secretary:

House Paper 1181, L. D. 1474 having been returned by the Governor together with his objections to the same, pursuant to the provisions of the Constitution of the State of Maine, after reconsideration, the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

Forty-two voted in favor and ninety against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Respectfully,

EDWIN H. PERT

Clerk of the House

Which was Read and Ordered Place on File.

ORDERS

On motion by Mr. Pray of Penobscot, 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 Sterns High School Minutemen

Boys Varsity Baseball Team

Eastern Maine Class B Champions

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. 575)

Which was Read and Passed.
Sent down for concurrence.

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 Sterns High School Minutemen
Boys Varsity Baseball Team
State Class B Championship

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. 576)

Which was Read and Passed.
Sent down for concurrence.

Papers From The House

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

Enactors

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

Emergency

An Act Making Current Service Appropriations from the General Fund for Expenditures of State Government for the Fiscal Years Ending June 30, 1976 and June 30, 1977. (S. P. 546) (L. D. 1909)

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

Mr. HUBER: Mr. President and Members of the Senate: The Appropriations Committee is very pleased to have taken the unbalanced budget presented to us and to now present a truly balanced budget. In the budget we were given, deficits in funding of education and debt service less the 8.3 million of so-called surplus amounted to a real deficit of 4.2 million dollars.

After our receipt of the governor's budget, the state supreme court decision eliminating the phase-in provisions of L. D. 1994 and the 2.5 million relief the legislature granted to towns severely hurt by this decision, worsened our deficit position by another 2.5 million dollars. However, the 6% limitation on the increase in the cost of primary and secondary education more than offset this problem, reducing the deficit originally in the governor's budget from 4.2 million dollars to 3.7 million dollars.

The Governor's decision to require quarterly payments of state income tax by corporations, which was enacted by the Senate recently, and is the only tax change involved in this finance package, then provided an additional 7 million dollars to

yield a surplus of 3.3 million dollars prior to the changes made in the governor's budget bill by the Appropriations Committee and our extremely capable staff.

I am delighted to report that this committee has made revisions increasing this surplus from 3.3 million dollars to 5.5 million dollars.

In addition to increasing the surplus from 3.3 million to 5.5 million, I am further pleased to report that we have more realistically funded several small departments which would have been seriously hurt by the mechanical cuts in the budget we were given, such as the Secretary of State's office, the audit department, the administrative court and elsewhere. More importantly, we have been able to reinstate adult education programs; provide additional funding for the vocational technical institutes, appropriate \$800,000 in student aid for the university which will generate 4-6 million dollars in matching funds; reinstitute day care, aid to charitable institutions and sheltered group homes for girls; we have also provided an additional \$700,000 for aid to families with dependent children and granted the department of mental health and corrections \$587,000 in contingency funds to meet emergencies in our admittedly still austere budget.

To summarize, we have taken a budget which, after the smoke had settled around the funding of education problem, presented a deficit of 3.7 million dollars. We have accepted the governor's decision to require quarterly payments of state income tax which will yield about 7 million dollars on a one-time basis. Our budget revisions will increase the resulting 3.3 million surplus, after this tax change, to a 5.5 million surplus. We have also funded a number of worthwhile programs cut from the Governor's budget.

I am extremely proud of all members of my committee in dealing with a difficult situation and working out what I feel is a good budget and a balanced budget.

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

Mr. MERRILL: Mr. President and Members of the Senate; I would like to extend my congratulations to the Appropriations Committee for what looks, on the type of superficial study that someone not on the committee is able to give it, looks like an excellent job in preparing the budget, but I would like to have the Chairman or maybe somebody else from the Appropriations Committee, give the Senate some indication of the impact that this budget will have upon state employment, employment of people, within the state government, and where that impact would be most strongly felt.

Secondly, maybe we could have a little bit more detail on what effect this "admittedly austere budget" will have upon the delivery of services by institutions that are most severely affected, such as the University.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, has posed a question through the Chair to any member of the Appropriations Committee who would care to answer.

The Chair recognizes the Senator from Cumberland, Senator Huber.

Mr. HUBER: Mr. President and Members of the Senate: The Governor has repeatedly said that he needs time to work to try and effect cost savings in departments. Inasmuch as this budget has

not been in effect, we really have no firm indication of what it may do on state employment. This is an austere budget. I think administratively the Governor has to be given the flexibility to try and make his programs operate. We have been told that these programs can operate under this budget with the funds provided.

I think the most immediate problem is in the Department of Mental Health and Corrections, and, as I say, we have already provided \$587,000 contingent funds in this budget to meet various emergencies in this department, which perhaps is one of the tightest items in the budget.

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

Mr. KATZ: Mr. President, I would like the Senate to think back to the beginning of January when we first met and consider the alternatives that were in front of us at that time. There were those who wanted to pass the budget intact and go home. There were others who wanted to put on the income tax and face up to our responsibilities. And now these months later the Committee on Appropriations has brought us forth a current services budget which is on the verge of enactment without rancor, with a minimum of shouting, and with a complete absence of any partisan considerations, and I would like to add my well done to the members of the Committee also.

I think also the adoption of this budget is a real testimony to the desire of this legislature, a Republican Senate, a Democratic House, to work with an Independent Governor, and Lord knows it has not been easy, but I think that the system has worked well and has brought credit to us all.

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

Mr. MERRILL: Mr. President, I would thank the Chairman of the Appropriations Committee and simply say I concur that a very good job has been done, but I don't want to vote on and pass this budget without putting on the record my concern about what impact this might have upon people who work for the state and upon the services that we are able to give.

It was my fortune, or lack of it, just a night or two ago to run into a person who had just been given his notice of termination of his services from state government as a result of cuts that were being made in his department. This is a person of considerable academic training who held a doctorate degree, he held what he thought was a secure position and had recently made some investments in automobiles and other things as a result of that, and suddenly found himself with the situation of having his employment terminated beginning the month of July, and in a department that is already, from all understanding that I have, overworked.

This sort of thing concerns me. Projections of this budget may mean 600 less jobs. Although on the face of it I have no objection to that, it does raise concerns about what that is going to mean in the delivery of services. Maybe it will mean nothing. Maybe it will mean a great loss. So as this budget passes through this Senate, I just want to make it clear that I have some grave concerns, although I am very happy and glad at the distance that the Appropriations Committee has been able to stretch the dollars available.

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

Mr. CONLEY: Mr. President and Members of the Senate: I would like to add my sincere congratulations to both the House Chairman and the Senate Chairman on this Committee as well as the Committee. I think the good Senator from Kennebec, Senator Katz, expressed very well the sentiment for the vast majority of us here in this body. There are many of us who have great concerns relative to the proposed budget, but I am convinced that some of the reshuffling that was done by the Appropriations Committee and some of these departments in beefing up funding in departments that they felt were truly lacking in monies is certainly going to make the road much easier for those departments.

We recognize the fact too that we do have an Independent Governor who is trying to do what he feels is bringing the state's economy under control in the field of expenditures of state monies, and I myself, as one member of this body, thoroughly examined his budget as it was first proposed and had great misgivings with it, and I still have some misgivings, but I think honestly, as the Governor said in his statement to the leadership and to the legislature as a whole back in January, that he was asking for some time, and if there are grave errors or omissions that he will have us back in the fall to make any corrections that he deems necessary.

So I am going to ask the members of my party this morning to support this budget and to send it to the chief executive for his consideration, with the hope that when we do come back in the fall, if there are problems, that we face up to those responsibilities that have been entrusted upon us by the voters of this state and, if we have to bite the bullet, then I think the bullet should be bitten at that time.

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

Mr. SPEERS: Mr. President and Members of the Senate: I too wish to add my very sincere congratulations to the Committee on Appropriations for doing a very difficult job in a very difficult time. There were, of course, two voices that were speaking very loudly and very clearly throughout this entire session. On the one hand, the voice that was telling us every day that we were in very difficult economic times and that we in state government must indeed recognize that the people of this state can ill afford to be saddled with additional taxes at this point. The second voice, of course, that we were all consciously aware of was the voice asking us for responsible government and to be responsible in providing for the very essential needs of government which also, of course, affect the people of this state.

I think the legislature very often is regarded as not listening to the needs of the people or the will of the people, and particularly in these last few years the political process itself has been subjected to a great deal of cynicism. But I think that in the last election the people of this state were speaking very clearly to its leaders, to those of us who found our way to these halls, and they were saying very clearly that they are indeed difficult economic times and that we cannot afford at this point to pay additional taxes.

We have before us a budget that has been worked upon by the legislature with that idea constantly in mind, and the very difficult task that that committee had and that this legislature has had is to work out a formula by which we can accede to that

wish of the people that there be no new taxes at this time and yet live up to our responsibilities as best we can.

I think, Mr. President, the legislature has responded to the people, that the political process has worked exceedingly well in very difficult times, and that we have here before us a document of which all of us can be justly proud, and particularly the Appropriations Committee.

Looking to the future, I think we all understand and realize that whatever actions we take here on any issue, it is not the final word, and that additional problems will be coming up, that different approaches may have to be made. But the chief executive of the state has indicated that he can operate the programs of government, the needed programs of government, within the confines of the budget that he has presented to us, and I think that he deserves that opportunity. He has stated that there are ways in which the executive branch can find savings in the operations of government, and I think he deserves that opportunity. And if we do find that we are unable to continue to provide the needed services of government under the document that I hope we will pass here this morning, we will indeed have the opportunity in the fall to receive additional recommendations from the chief executive.

Mr. President, I would urge the members of the majority party of this body to support this document and in so doing to be responding to the overall wishes and desires of the people of the State of Maine.

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

Mr. CURTIS: Mr. President and Members of the Senate: Inspired by the remarks of my majority leader, the Senator from Kennebec, I would like to express some concern about four areas of particular concern on the part of my own constituency, and that has to do with the University of Maine. They are areas that I am sure were considered in depth by the Appropriations Committee and I hope will be in the future.

The first one has to do with the increased fuel oil costs which are likely to be faced by all institutions which are funded in whole or in part by appropriations from the general funds. We have been blessed with two very mild winters in the last two years, and I would just express some concern that the good assistance we have had from above might not continue in the future and the increased costs of oil might create some difficulties that we ought to keep an eye on in the future.

The second concern I have has to do with the lack, as I understand it, of any additional funding in the University's part of the budget regarding step increases for classified employees at the University of Maine. Similar increases, as I understand it, have been provided for state employees, but not for University employees, and I would like to remind the legislature of some action that was taken a few years ago in which the House and the Senate jointly requested the Board of Trustees of the University of Maine to pay the employees of the University at the same level that employees are paid for the State of Maine. I hope that the Board of Trustees of the University will continue to follow that request from a previous legislature, but I know that it will be difficult for them to find the finances to do that.

That leads me to the third point, and that is the situation that the University is facing, and I am afraid it may turn into a crisis within another year or two, and that is the loss of very dedicated and very good faculty and professional members of the University who are leaving to go to other institutions where they are able to receive substantially higher salaries.

Finally, my fourth point, that again I am sure the Appropriations Committee has considered and I hope will continue to, is that there have been a number of buildings, several buildings, which have been authorized at the various campuses of the University by previous legislatures and by vote of the people when they approved a bond issue, and there is a need for some start-up costs, some start-up money, to be provided for the beginning of operation of those buildings. And I am talking here about new personnel who are needed, such as janitors and new services which must be provided, such as heat and electricity.

Finally, I would like to extend my own very heartwarming praise to the Appropriations Committee and to leadership for doing as well as they have in providing \$800,000 additional money for student assistance for University students. Combined with the federal money which will be available, as we understand it from the Chairman of the Appropriations Committee, of between 4 and 6 million dollars, that is a great boost to the individual students who might be in the lower income bracket and because of the difficult times and the unavailability of financing might have to face an increase in tuition. So I would hope that in any Part II Budget which might be proposed in the future or in any session in the fall that these matters I have suggested would be given a second look.

The PRESIDENT: Is the Senate ready for the question?

Thereupon, this being an emergency measure and having received the affirmative votes of 31 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.

Mr. Berry of Cumberland was granted unanimous consent to address the Senate.

Mr. BERRY: Mr. President and Members of the Senate: I was very much impressed by the speeches of both our floor leaders, the good Senator Conley from Cumberland and Senator Speers from Kennebec, because this has reflected the first time officially that our leadership has pledged public support and publicly acknowledged the situation which has been facing the State of Maine since the inauguration of the present Governor. I think we have got to realize that the situation facing a new Governor is extremely difficult. This particular situation was even more so because of a lack of a party backup, but a budget was presented and we have all acknowledged that it had problems. And I am very encouraged that these two outstanding Senators have recognized the situation, and I feel sure they are in total resonance with the people of the State of Maine and feel that from this time forward everybody is working for the welfare of the State.

The PRESIDENT: The Senate will be at east.

(Senate at Ease)
Called to order by the President.

Committee Reports**House****Leave to Withdraw**

The Committee on Taxation on, Bill, "An Act to Remove the Sales Tax Exemption for Fuels for Burning Blueberry Lands." (H. P. 425) (L. D. 518)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the report Read and Accepted.

Which report was Read and Accepted in concurrence.

Ought to Pass — As Amended

The Committee on Election Laws on, Bill, "An Act Relating to Political Fundraising by State Employees." (H. P. 1382) (L. D. 1686)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-651).

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

On motion by Mr. Collins of Knox, tabled until later in today's session, pending Acceptance of the Committee Report.

Divided Report

The Majority of the Committee on Judiciary on, Resolution, Proposing an Amendment to the Constitution to Provide a Non-jury Trial for Petty Criminal Offenses. (H. P. 301) (L. D. 351)

Reported that the same Ought Not to Pass.

Signed:

Senators:

CLIFFORD of Androscoggin

MERRILL of Cumberland

Representatives:

GAUTHIER of Sanford

HENDERSON of Bangor

McMAHON of Kennebunk

BENNETT of Caribou

HEWES of Cape Elizabeth

HUGHES of Auburn

MISKAVAGE of Augusta

HOBBINS of Saco

SPENCER of Standish

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

Signed:

Senator:

COLLINS of Knox

Representative:

PERKINS of South Portland

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

Which reports were Read.

Mr. Collins of Knox then moved that the Senate Accept the Minority Ought to Pass Report of the Committee.

The PRESIDENT: The Senator has the floor.

Mr. COLLINS: Mr. President and Members of the Senate: This bill is a constitutional amendment proposal which would cause the State of Maine to take the same position with regard to jury trials for petty offenses as has been adopted in 49 of the 51 jurisdictions comprising the United States of America. We have 50 states and then we have the federal government as a jurisdiction making the 51.

In our State of Maine our system of criminal courts has three levels. First is the district court, which functions without any jury. Next is the superior court, which uses a jury whenever a criminal defendant wishes to have a jury. And the highest level is the supreme judicial court, which hears only appeals as to matters of law in this regard, in general, and is commonly nicknamed as the law court.

Over the last few years, with increasing crime and with the expansion of the rights of the accused because of the decisions of the United States Supreme Court, a person accused of crime has been consuming a greater and greater amount of time in our court system and is permitted to have so many opportunities to delay justice that the court system is badly bogged down.

Two years ago the 106th Legislature, under the leadership of Senator Brennan, recognized the problem of crowded dockets in the superior court and passed a law requiring the criminal defendant to make a choice at the district court level as to whether he wished to have a jury trial. After a year and a half of usage of this new law, it was concluded within the legal profession and within the judiciary as a whole that this law had proved to be of no help to the problem. The legislature earlier this spring recognized this and passed an emergency act repealing the provision passed in the 106th Legislature and replacing it with something that hopefully will be a little bit better. But we recognized at that time that the step we took was a very small one toward solving the major problem.

One of the reasons that this law passed in the 106th Legislature was not effective for the purpose intended was that when the issue was tested in the Supreme Judicial Court in March of 1974 that court handed down a decision, in the case of State against Sklar, interpreting the State of Maine Constitution to the effect that a jury trial was the right of every person for every criminal offense, whether it be passing a stop sign, speeding, or spitting on the sidewalk. The particular case happened to involve speeding. The judges of our highest court recognized the problem created by their decision, but felt compelled to interpret the constitution with complete intellectual honesty. I respect and I applaud that honesty. In its opinion in State against Sklar, the law court recognized the problem which we now seek to correct by the passage of L. D. 351. I quote from Mr. Justice Wernick's opinion: "We are acutely sensitive to the burdens imposed upon the superior court and the great expense to the taxpayers which can result from the accused having a right to jury trial no matter how trivial the violation of the criminal law. We know too of the abuses which can arise from bad faith resort to the constitutional guaranty of jury trial to achieve strategic benefits lying outside the protections intended by the constitutional rights."

Some people have said to me who watch jury trials as a matter of sort of spectator sport that they haven't seen very many cases where jury trial in its final performance is abused. I would agree that in general that is true. It is not the trial itself that gets abused, but it is the use of the right to trial to delay the performance of justice. We have an exact and accurate record of the abuse of this right of jury trial kept by our superior courts for the year 1974. We have this, you see, because of what the previous legislature did in the way of requiring the electin at an early stage. More than 4,200 persons accused of crime requested a jury trial, and please bear in mind that I am now talking about crimes that we classify as misdemeanors. This is the minor crimes, the crimes punishable by not over a year in prison. More than 4,200 persons requested the jury trial and removed their cases from the district court to the superior court. But do you know how many of these persons who requested the jury trial actually went

ahead with having the jury trial in the superior court? Less than 3.6 percent, exactly 179 persons, of the more than 4,200 persons that asked for the trial.

The purpose of the bill now before you is not to attack the legitimate jury trial. Anyone who has committed a serious crime will have the same rights that they have always had to have the jury trial. It is only the misdemeanors where the penalty is not more than six months and not more than \$500 of fine which will be tried by a single judge sitting without a jury. This means that the bulk of these cases can then be tried without delay in the district court, which is the way that our court system was designed. This will relieve a great deal of the congestion in the superior court, but more importantly, it will relieve the tremendous waste of time and talent and money that goes into our present system of coming to court again and again and again only to find that the accused has claimed the right of jury trial, has delayed the processing. The witnesses come and they go home, the lawyers come and they go home, the clerks and the bailiffs and the judge, everyone's time is taken and wasted, absolutely wasted. And this tremendous waste of time and talent and money is something that we have to improve.

48 of our states and the federal court system have long since recognized that a jury trial is not feasible for every petty crime. Certainly the State of Maine is not wealthy enough to have the jury trial for every petty crime. We have gone too far in turning over the operation and control of our courts to the whims of the criminals. We must recognize so well that justice delayed is justice denied.

I would like to point out to the Senate that every justice of the supreme judicial court favors this change. Who are these men and what is their experience: Armand A. DuFresne, Jr., Chief Justice, has had a long and distinguished career as a prosecutor, as a judge of probate, as a judge of the superior court, as an associate justice of the supreme judicial court, and now as chief justice. James P. Archibald of Houlton has been a county prosecutor, an assistant attorney general, a judge of the superior court for many years, and now an associate justice of the law court. Charles A. Pomeroy of Windham, after early experience as a defense trial lawyer, as a tort lawyer, referee in bankruptcy served for many years on the superior court with his headquarters in Cumberland County, and has shown great concern for the rights of the accused in his opinions as a justice of the law court. Randolph A. Weatherbee practiced law in Bangor, served as county attorney, judge of probate, and then for many years was a justice of the superior court before being elevated to the law court. Sidney W. Wernick served with great ability as judge of the municipal court for the City of Portland, and then was appointed to the superior court and then to the law court. Thomas E. Delahanty of Lewiston served in the government of his home city, served as chairman of the Public Utilities Commission, then as a judge of the superior court, and now is a member of the law court.

I have tried cases in our superior courts before every one of these judges. I have had adversary professional relationships with three of these judges, and I know of their caliber and of their experience and I respect it greatly. The wisdom and experience of these gentlemen on our highest court should not be lightly pushed

aside when you consider the fate of this constitutional amendment.

My opponents in this debate will undoubtedly point out to you that this legislature has already done a number of things to improve our court system, and I agree, and I am very please concerning work that my colleagues have put into this attempt to reform our system. And what we have done is all in the right direction. We have made provisions concerning the possible use of smaller size juries in civil cases; we have reorganized the entire court system, particularly in the superior court area, provided for appointive clerks of court instead of elected clerks; we have made venue provisions that permit greater flexibility in use of facilities and locations; we have very nearly passed a new criminal code; we have changed the system of traffic offenses so that when a police officer fills out a paper now it becomes not only a ticket but a summons and a complaint so that in one action we have accomplished what it has been taking two or three separate actions and sets of people to do; we have made some changes in the bail law toward tightening up the bail system. These are all important, but back of it all is still the problem of the No. 1 technique used by the accused, the technique of delay. One of the first things that I learned as a young trial lawyer was that if your case isn't very good, then delay; you don't have a thing to lose and you may have a great deal to gain, so delay and delay and delay. I don't like that idea, and as I have grown older I have refused to delay because I don't think it is the way to run our system.

A constitutional amendment requires a two-thirds vote of both houses and then it must go to a referendum of the people. Certainly the people of Maine should have a chance to decide whether it is now time to make a real improvement with respect to juries in the system of criminal justice for the State of Maine. Thank you, Mr. President.

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

Mr. MERRILL: Mr. President and colleagues in the Senate: This is an important debate that has been undertaken here today by my colleague and my friend, the Chairman of the Judiciary Committee, the Senator from Knox, Senator Collins, and I think that this Senate and this legislature owes Senator Collins a great debt of gratitude for the work that he has done to improve the delivery of the criminal justice system and to provide for swifter adjudication in the law. If we continue with the way we are going now in this legislation, we will be able to leave here and point to efforts that have been enumerated by the Chairman which will speed up the delivery of justice and which will do nothing but improve justice under the law here in this state. But there is a very narrow question that is before this legislature here this morning, and that is the question of what, if any, adjustments we want to make in the right that our people here in Maine have today to a jury trial.

The arguments that have been used for this, what I would call a radical change from present Maine doctrine as defined recently by the law court, is the argument that the right to a jury trial is being used for the purpose of delay. The fact that that sometimes takes place cannot be argued with. The fact that it would be a much less successful tactic if and when we continue,

as this legislature has begun, to organize our courts in such a way that we can provide for swift trials if that is what the people want, be they with jury or without jury, the fact that we can defeat that tactic as a tactic of delay to a great extent by improving our court system, as we have begun to do, I think, goes a long way towards answering the criticisms that the Senator from Knox has pointed out in regards to a jury trial.

I would also point out that there is another bill, another resolve, that is before this legislature and in the Judiciary Committee, sponsored by the other very esteemed member of the Judiciary Committee from this body, the Senator from Androscoggin, Senator Clifford, which would provide that the right to a jury trial would be removed, that there would be no right to a jury trial, in situations where there is a fine of less than \$500 where the person doesn't have the possibility of being sent to jail. That possibility will come before this legislature and this Senate when and if the amendment before us now is rejected. I think that that is a better approach.

Many of the examples that have been pointed to by the Senator from Knox, Senator Collins, as examples of where one really shouldn't have to have a jury trial, such as traffic cases, are examples of where we really don't need a jail sentence penalty. There is no reason, for example, I don't think to have in our laws the ability to send a person to jail for five months or four months if he goes through a stop sign. And if we don't have that penalty in our laws, and if we accept later on the amendment offered by Senator Clifford, then that person won't have a right to a jury trial and we will have taken care of many of these important areas.

But leaving aside those changes and going in that direction, let's take a look at this amendment and its effect. Under this amendment, if we were to accept it, this radical departure from the strict adherence to the right to jury trial that is so important to Maine's system of jurisprudence now, a person could face a jail sentence of four or five months and not have a right to a trial before his peers. Now, we discuss serious crimes sometimes when we discuss the legal system here in this legislature, when we discuss life sentences and 25 years in prison and that sort of thing, and I suppose after we discuss that sort of thing for a period of time four months doesn't sound like very long. I think if any one of us here considered the infringement on our personal liberty, upon our economic situation and upon our family life, that four months in the county jail would represent, and the shame and the loss of dignity that that would bring to the family for being convicted of the crime and having people know that you had spent that period of time in jail, I think we can see that what we are talking about is something quite serious, it is something to be taken very seriously.

The right to personal liberty is protected, of course, in the constitution. I personally believe that the greatest protection of personal liberty is the right to a trial before our peers. There is a school of legal thought that those of us who are lawyers and trained to be lawyers run across quite often when we go through the process that has a great deal of scorn for the jury system. It is a type of elitism that grew from the halls of Harvard Law, I think, and has spread throughout our legal

system, and many people really subscribe to it in their hearts today. I am not one of those people. I think that the jury system and putting this question to a group of people is the best protection we have for our personal rights. I think that the jury system has proven itself time and time and time again. And in looking over the events of the last four or five years in regards to what has gone on in our nation and the trials that have been brought, the political trials that have been brought, I think that we come away from that process being pretty proud of the jury system. All of us got here by a vote of the people, and I think all of us here, if we think about our own thoughts about the wisdom of the people ultimately when they are put to a serious question, will conclude in the opposite way that these elitists in the legal field conclude, that the jury system is a good system and it is to be preserved.

So what I would urge the Senate to do is to reject this constitutional amendment, to reject it and then to look at the moderate amendment being offered by the Senator from Androscoggin, Senator Clifford, and give that serious consideration. I think it will answer most of the problems that have been raised by the Senator from Knox. I think it is a moderate step.

There is one final point I would like to make. The Senator from Knox, Senator Collins, is right when he says that Maine is out of step with the nation in this regard. My only observation in having accepted that as true is that we should be proud of it.

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

Mr. ROBERTS: Mr. President and Members of the Senate: I simply want to concur with Senator Collins. I feel that Maine is, to quote my brother, Mr. Merrill, out of step with the times. And we are not talking here about eliminating jury trials; we are talking about trying to keep our judicial system in the State of Maine from a complete collapse. If anybody ran a business the way we attempt to run our courts in the State of Maine, they would long since be bankrupt and gone. I mean, the work load is just tremendous, and yet maybe we have decided finally this term to put one more person on the state supreme court, and we have maybe two more superior court judges than we did 30 years ago or 40 years ago, when I first started to practice law 35 years ago.

When I practiced law and was probably one of the youngest municipal judges, which was back in the early and mid-40s, it was customary to have maybe 100 or 150 appeal cases from the Sanford Municipal Court to each term of the superior court in York County. Now that number has risen to as high as 700 and 800. It just isn't possible for those cases to be considered. And because of that situation, people are taking advantage of it simply by saying, well, if we ask for a jury trial, then it has to go to the superior court, and when it gets there, with the tremendous case load that is there, there are all sorts of chances that the case isn't going to come to trial. If it is a relatively small case, such as we are talking about, like speeding or some other driving operation violation, chances are the state police will be transferred in six months or a year to some other part of the state and may not even be available. The chances are that some of the witnesses that the state expects to use will not be available, either through death or sickness, and so on. There are all sorts of chances that that case will never come to

trial and, because of that, this is taken advantage of.

Now, we can streamline our courts, and we have and we are, and I am all in favor of that, and it has to be done or else the system will collapse for sure. But even doing that is only part of the answer. The other part of the answer is to make it at least a serious offense for which a jury trial is allowed, and not for these small assault and battery cases, these small traffic violations, stop signs, even drunken driving, which is of course the one violation that probably has more cases pending than any other violation in the State of Maine.

I would simply say that we are behind the times here in Maine and we should catch up in this respect, because certainly when we and Massachusetts have the distinction of being the only two places where anybody can get a trial for any criminal offense whatever, and we look at Massachusetts and find that they are probably the worst state in the union as far as the backlog and delay that it takes to get the cases to court in Massachusetts, and we aren't far behind them — if anything, we may be catching up on them — we just simply can't afford to let the situation continue any longer, and I hope that this body will support the motion of Senator Collins.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I certainly want to congratulate the Chairman of the Committee on Judiciary, the Senator from Knox, Senator Collins, for presenting the case for the constitutional amendment in a very thoughtful manner and taking a very intelligent approach to this. But I think that we have got to keep this issue, which is a very important one, in perspective.

First of all, I think the statistics which the Senator from Knox, Senator Collins, gave us about transfers to the superior court are somewhat misleading because I believe that those transfers, most of them or a good many of them, occurred under the law which we recently changed which required the defendant to make an immediate choice as to trial in the district court or to transfer to the superior court, and I think the result was that almost every case was transferred to the superior court, whereas under the present law which we have enacted I think more of them, substantially more of them, will be disposed of at the district court level.

I think also we should keep in perspective the court reform which this legislature has enacted. And especially relevant to that court reform is the traffic court revision which we have enacted, which will remove as criminal offenses those minor traffic offenses which the good Senator from York, Senator Roberts, mentioned. And since they will be removed as criminal offenses, they will also be removed as jury offenses, so that this will cut down again substantially on the number of jury trials. This, I think, coupled with the reform of the supreme and superior courts, which this legislature has enacted, will put the state court system in certainly a position superior to what it is now as far as its administration.

Now, I oppose this bill I don't think as someone who is opposed to any changes in the court system. I sponsored the court revision bills; I cosponsored with the Senator from Knox, Senator Collins, the Maine Criminal Code; I sponsored a

constitutional amendment, which was defeated unfortunately in the other body, to eliminate the necessity of a grand jury when there was a finding of probable cause in the district court. I did sponsor L. D. 1115, which is a similar constitutional amendment to cut down on the right to a jury trial, but there is a substantial difference between 1115 and this resolution we are talking about this morning, 1115, which is still in the Judiciary Committee, takes away the right to jury trials only when there is no incarceration, and it seems to me the issue here is precisely that; that I don't see how anyone can call any offense which results in the deprivation of someone's liberty for up to six months, I don't see how anyone can call any of those offenses minor offenses. If someone is going to be incarcerated for up to six months, it seems to me that that person ought to have a right to trial by jury.

I think as a practical matter, 1115, the resolution which is still in the Committee on Judiciary, is the only resolution which is going to get through this legislature. This L. D. 351 has already been defeated in the other body, and it requires upon its passage two-thirds of both bodies. So I would hope that we could defeat the motion of the good Senator from Knox, Senator Collins, to accept the Minority Ought to Pass Report of the Committee in concurrence, and do something substantial in reducing the backlog in our court systems by unanimously supporting L. D. 1115. And at the same time, we will be preserving that right of a person to have a jury trial when he or she is going to be incarcerated, be it one day or six months. Thank you, Mr. President.

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

Mr. COLLINS: Mr. President, I request that a roll call be taken when the matter is put to a vote, but I would like to close my thoughts with just two observations. The other amendment still in the committee is an extremely modest one. It is better than nothing, but not much.

I asked the Attorney General to give me a list of the twenty most likely criminal offenses that would be affected by the other amendment to which the good Senator from Androscoggin has referred. I studied the list carefully, I did research in court records, and talked with clerks of courts of considerable experience who could remember cases in recent years, and out of the 4,200-plus cases that last year were the subject of jury trial requests, if that were to prevail in the future as a general measurement, there would be less than 40 cases, at the most, that would be affected by the other jury amendment, 40 cases, when you are dealing with 4,200-plus cases, isn't very much of a change.

One other point. There are times when it is very important to have a jury to get a cross-section of the community's moral judgment and to get the advantage of more than one person making the decision about whether a witness has lied or told the truth, but the jury as an institution has certainly no better record and, according to my own scholarship, a poorer record in finding the truth than is the case with members of the judiciary, and I find it difficult to reconcile the position of the good Senator from Androscoggin when he presents a constitutional amendment that does away with grand jury procedures in favor of the judgment of a single man in the very serious cases, the felony cases, because it is only in the very serious cases now that

the constitution mandates the grand jury. So in one case he does not think the single judge should make the decision — of course, there is the possibility of a jury later, I understand — and in another situation he does. Now, these are legitimate differences of opinion, and I respect the fact that other lawyers will disagree with me. I expect that in the profession we might be fairly evenly divided on this amendment that I offer, but I think that we are not divided as a profession in one respect, and that is that we recognize the urgent need to improve our court system, and we must respond to what the people of Maine want us to do in improving that system. And I ask you, regardless of what any other body may have done or may do in the future, to put this Senate on record as favoring this significant step forward.

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

Mr. CLIFFORD: Mr. President, I know that this has been debated at length. I do think there is a substantial difference between elimination of the grand jury, which really has become a tool of the prosecutors and really does not serve the kind of purpose that it used to serve, plus, as the Senator from Knox, Senator Collins, has pointed out, the function of the grand jury is to only find probable cause and not guilt or innocence. I think court reform is or should be a continuing affair that the legislature should have an interest in. I think one of the reasons that the court system has been in some trouble is because it has not been looked at on a continuing basis by the legislature.

If this constitutional amendment is defeated, and if the constitutional amendment as recommended by the Court Revision Commission, 1115, is passed, then, Mr. President and Members of the Senate, the legislature will be in a position to look at its criminal laws and the sentencing provisions in those criminal laws, and to remove from those criminal laws which the legislature considered to be minor the provision for jail sentences and incarceration. Then I think that we can substantially increase the number of criminal laws the violation of which will not be subject to a jury trial. But it is a continuing process. I admit that 1115 right now does not do much in the sense of the number of crimes that it removes from the jury trials, but that is because most of our crimes have some jail sentence attached. I think most people agree that many of the relatively minor offenses do not need a jail sentence attached, so that if 1115 passes, the legislature can then, as part of its continuing look at the judicial system, change the incarceration from some of those minor offenses so that we will retain that sacred right that when someone is going to jail, whether it be for one day, six months, or for life, that that person is entitled to a trial by his peers. Thank you, Mr. President.

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

Mr. MERRILL: Mr. President and Members of the Senate: This has been given considerable time in debate, but we are going to be asked to put our names on a roll call, and I think that it is appropriate because this is a very important roll call and it is one that I am sure many citizens will look to as a bellwether in regards to each of us, so I think that the Senate is probably fortunate

to have had this aired by people of the caliber of Senator Clifford and Senator Collins.

I just want to say one more thing in regards to the problems that we have. There are many people among us in this chamber and in this state who feel that in some ways we have gone too far in extending rights to criminals or people who are accused of committing crimes, and some who have that feeling have been tempted to remove what has up until now been a right of everyone who has been accused of a crime, and what I think should continue to be a right of anyone who is accused of something that may cause him to lose his liberty. Walter Lippman wrote a book the title of which was "Public Opinion", and he wrote it many years ago. He basically put forth his faith in the public, but he said that one of the problems that we worry about sometimes is that there is an overresponse, that the pendulum will swing one way and then it makes a drastic swing back the other way, and it is very difficult sometimes to get moderation. A lot of people thought when this legislature first said that it was going to respond in sort of a similar fast shift in regards to the environment. We haven't done that. We have taken a moderate approach, and maybe we have let the pendulum adjust itself some, but we haven't gone along with having a violent jarring swinging back in the other direction. This legislature has, or will have when we defeat this, a moderate, measured alternative, and I think that that is the alternative to follow, and to avoid taking this step which will say for the first time in Maine's history that liberty can be taken away for up to six months without a right to a trial before our peers.

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

The Chair recognizes the Senator from York, Senator Danton.

Mr. DANTON: Mr. President, this is a very serious issue and I would like to really study this bill, so I was wondering if somebody would table this for one day. I don't want this in any way to be a party vote. I want to really and truly vote the way I feel on this bill, and I was hoping that someone would table this for one day.

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

Thereupon, on motion by Mr. Conley of Cumberland, tabled and Tomorrow Assigned, pending the motion by the Senator from Knox, Senator Collins, that the Senate accept the Minority Ought to Pass Report of the Committee.

Divided Report

The Majority of the Committee on Marine Resources on, Bill, "An Act to Provide for Licensing of Sternmen on Lobster and Crab Fishing Boats." (H. P. 1676) (L. D. 1923)

Reported pursuant to Joint Order (H. P. 1603) that the same Ought to Pass.

Signed:

Sensors:

BERRY of Cumberland
REEVES of Kennebec
CUMMINGS of Penobscot

Representatives:

CONNERS of Franklin
GREENLAW of Stonington
WEBBER of Belfast
POST of Owl's Head
MACKEL of Wells
CURTIS of Rockland

JENSEN of Portland
MILLS of Eastport
BLODGETT of Waldoboro

The Minority of the same Committee on the same subject matter reported pursuant to Joint Order (H. P. 1603) that the same Ought Not to Pass.

Signed:

Representative:

JACKSON of Yarmouth

Comes from the House, the Majority report Read and Accepted and the Bill Passed to be Engrossed as Amended by House Amendment "A" (H-694).

Which reports were Read.

Thereupon, the Majority Ought to Pass Report of the Committee was Accepted in concurrence and the Bill Read Once. House Amendment "A" was Read.

On motion by Mr. Berry of Cumberland, tabled until later in today's session, pending Adoption of House Amendment "A".

Divided Report

The Majority of the Committee on Liquor Control on, Bill, "An Act Authorizing the Licensing of Indoor Tennis Clubs, Indoor Skating Clubs and Golf Course Clubs for the Sale of Alcoholic Beverages without Requiring the Sale of Food." (H. P. 1631) (L. D. 1906)

Reported that the same Ought to Pass.

Signed:

Sensors:

GRAFFAM of Cumberland
CARBONNEAU of Androscoggin
DANTON of York

Representatives:

IMMONEN of West Paris
PERKINS of Blue Hill
JACQUES of Lewiston
PIERCE of Waterville
DYER of So. Portland
TWITCHELL of Norway
MAXWELL of Jay
LIZOTTE of Biddeford
RAYMOND of Lewiston

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

Signed:

Representative:

FAUCHER of Solon

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

Which reports were Read.

Mr. Graffam of Cumberland then moved, that the Senate accept the Majority Ought to Pass Report of the Committee.

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

Mr. KATZ: Mr. President, I would like to move the indefinite postponement of this bill and all its accompanying papers and request a roll call vote. I am confident that the proponents who deal with tennis and other physical fitness activities would be the last ones in the world to take part in any procedure which would be injurious to the health and welfare of their customers and yet I think that is exactly the thrust of this bill.

This session of the legislature has taken up other alcohol questions extending the hours of sale, reducing the volume of food connected with certain licenses, and we have authorized agency stores.

We have dealt with quite a few liquor issues and, parenthetically, we have gotten into significant debates regarding certain motor vehicle offenses and the harshness or moderation of penalties, but there has been no bill before us this session concerning alcohol which so flies in the

face of every accepted, knowledgeable alcoholic expert in the United States that you simply do not serve alcohol in a public place without the mandatory availability of food, nobody. It has been my pleasure to sit with the top people in the alcoholic beverage industry on a national basis, and these people will tell you that public policy is best served when alcohol is served with food. And regardless of the ultimate intention of the proponents of this legislation that informally food will be available, we are not dealing with anything but a change in state law, and it is the wording of the bill on which we must base our decision.

I applaud the expansion of tennis clubs and I hope that they do well economically, but I plead with them and with the Senate that as we give them privileges to serve liquor and beer or wine in the future, if we do, that we do not violate this most scared of all caveats when we talk about licensing and liquor, and require the serving of food if we give any permission at all to serve alcohol.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: This bill received a fairly heavy favorable committee report, and I think it did so because it really has limited application. I think what it does is attempt to bring the liquor laws into line with the realities of what has happened in the recreation field. These recreation facilities which this bill covers are fairly new in the State of Maine, especially the tennis and the skating recreation facilities, and I think that everyone would agree that they do provide a new dimension for recreation for Maine's public.

I think that the choices that these recreation facilities are going to have to face — many of them will have to face the choice of remaining public or becoming private clubs. Of course, if they become private club, then liquor can be served without any state control and without, of course, any state income. And I think that would be an unfortunate thing to have happen if these recreation facilities became private clubs, because I think that is the decision they are faced with, because right now they are open to the public and these are the facilities where members of the public learn how to skate and learn how to play tennis, which both are inexpensive recreation activities which people can do for all their lives.

Now, all it does is allow these facilities to serve alcoholic beverages without meeting all the requirements of a class "A" restaurant. These facilities don't want to go into the restaurant business to compete with our small businesses, small restaurants, and they don't want to become private clubs. They do want to remain open to the public so that their facilities will be available to the general public and will be available to high school teams, to recreation department summer, and winter activities. These will be regulated by the Liquor Commission. This bill has the endorsement of the Liquor Commission, the Liquor Enforcement Bureau, the Maine Recreation and Park Association. I do think that it is a moderate bill, that it merely brings Maine's liquor laws into line with the existing realities of these relatively new type facilities. So I would hope that you could concur with the majority of the Committee on Liquor Control and enact this bill. I think if you do

this, you are giving a break to a lot of Maine people who are getting into these inexpensive sports which can be played for a lifetime by Maine citizens. Thank you, Mr. President.

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

Mr. CARBONNEAU: Mr. President and Members of the Senate: I am on the Liquor Control Committee and I favor this bill for one particular reason. That is that many of these new tennis clubs — many, I say, I think four in the state — have showed up recently, and most of them have financial problems. If this bill were to go through, it would help them out, and I think we need this to keep them going.

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

Mr. BERRY: Mr. President and Members of the Senate: I have gone 180 degrees twice on this bill, and I think I am back supporting it primarily for the reason that Senator Katz has brought up. It was my mistaken understanding at the time the bill was first debated that food was available and that all we were doing was making an exception to the revenue account. Now, I agree wholeheartedly with his position that food should be available in these places, and it would amaze me that anybody would run a facility like this and not have food available to serve the public the way they would expect to be served.

I support the views of Senator Clifford, I think we should provide these facilities and sort of go along with the times. It seems to me that we should provide in this bill that food facilities must be available if such a license is to be issued, and such facilities for food service would be as directed and approved and authorized, and so forth, by the Liquor Control Commission. It would seem to me we have something that we are all agreeing on; it is the mechanics, and perhaps somebody could come up with an amendment which would do what I think most of us would like to see done.

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

Mr. CLIFFORD: Mr. President, I certainly have no argument with the remarks of the good Senator from Cumberland, Senator Berry. I hope we would accept the Majority Report, and I certainly would work on getting an amendment to accomplish what he indicated he would like to see in the bill. I think this is a good idea and I think we should do it. I would hope that on this vote we would accept the majority report so that can be done. Thank you.

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

Mr. HICHENS: Mr. President, as related to my fellow Senators when the bill was accepted and sent to committee, there are two aspects to this bill which should be reviewed once more.

First is the flagrant abuse of the procedures in allowing the bill to even be before us this morning. It was refused as an amendment to a restaurant bill by the committee, and then it was not allowed on the Senate floor as an amendment to that same bill as being not germane to the bill, and then it was allowed after cloture date by the Reference of Bills Committee to go to the committee, and there was no hearing held, four reasons why we shouldn't even be considering it this morning.

But considering the bill itself, one member of the committee told me this morning that he voted for the bill against his own conscience because the man so interested in having the bill sponsored was in tears before the committee and said that he was losing business all the time and that other owners of these clubs were losing business, and they needed the liquor to keep that business going.

As explained by the good Senator from Kennebec, drinking without eating brings on serious consequences. As I listened to some of the debate on the issue, not trying to imply what went on in the other body, but I heard much of that debate about taking part in sports, about drinking, and then going out and driving. I can assure you this morning that if this bill is passed there is going to be a lot more tears throughout the State of Maine as a consequence.

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

Mr. KATZ: Mr. President and Members of the Senate: The title of this bill is "An Act Authorizing the licensing of Indoor Tennis Clubs, Indoor Skating Clubs and Golf Course Clubs for the Sale of Alcoholic Beverages without Requiring the Sale of Food." Now, if we are all going to get emotionally choked up and amend out part of the title so that they will have to serve food, then you have destroyed the intent of the bill, and there are other provisions under existing state law to let them do that without coming to this legislature. But the whole thrust is to subvert the intent of our liquor laws which have been developed over a number of years and reflect, I think, a desire to protect the people of the state.

Now, it has been my observation that there are very few, although there are some — there are probably more than a few people my age on the tennis courts these days — not everybody is in as great physical shape as I am, but essentially if you go to a tennis club you will find that there are a significant number, mixed in with the young marrieds and so forth, there are a significant number of young people. And I call to your attention the fact that we have debated this session a handy-dandy little bill which faces up to the fact that we have got a real alcohol problem in our schools, and somebody has put together a program so we give consistent instruction on the abuse of alcohol in our school system, and I tell you, it is going to be a multi-million dollar program if you ever enact it and put it into being. And I think that we have a greater responsibility to the well-being of our people, if we are talking about a multi-million dollar alcohol program in our school systems, that although I have a great deal of respect and affection for the need to help our new businesses prosper, I would say that for the sake of a \$200 license fee from a club to let them serve booze without any food, that we are being counterproductive, we are imposing an enormous human potential cost on our state and it is something we should stay away from, an stay away from not only in this session but forever and a day.

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

Mr. BERRY: Mr. President and Members of the Senate: I am sorry to see this brought to a financial position. I look at it myself as a bill which would provide a service or something the public would like to have. I don't look at it as a financial situation for the tennis clubs;

or the skating clubs or the golf course, etc. I for one play tennis, and I find that I have a problem getting a tennis court because the elderly retired people can schedule their schedule much easier than I, and they usually have the court scheduled before I can get a court. So I don't think that the court is utilized by the extremely young as much as the old. Also as to the other recreational facilities that are mentioned, I think you will find perhaps that the middle aged and the elderly also frequent these places more than the young.

I think the basic thing that we have to face here this morning is as the good Senator from Cumberland, Senator Berry, has mentioned, he would like to see food attached to this bill, and Senator Clifford of Androscoggin has indicated that he would be willing to work and offer that amendment. This morning we are not enacting this bill, we are only accepting a committee report, and I think the Senator from Androscoggin should be given the courtesy to offer that amendment to see if it satisfies the Senate.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is their motion by the Senator from Kennebec, Senator Katz, that this bill be indefinitely postponed. A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question is the motion by the Senator from Kennebec, Senator Katz, that this bill and all its accompanying papers 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 Collins, Corson, Cummings, Curtis, Cyr, Greeley, Hichens, Jackson, Katz, McNally, Speers, Thomas, Trotzky.

NAYS: Senators Berry, E.; Berry, R.; Carbonneau, Cianchette, Clifford, Conley, Danton, Graffam, Graham, Huber, Marcotte, Merrill, O'Leary, Pray, Reeves, Roberts.

ABSENT: Senators Gahagan, Johnston, Wyman.

A roll call was had. 13 Senators having voted in the affirmative, and 16 Senators having voted in the negative, with three Senators being absent, the motion did not prevail.

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

Senate Ought to Pass — As Amended

Mr. Thomas for the Committee on Business Legislation on, Bill, "An Act Relating to the Registration and Practice of Professional Engineering." (S. P. 112) (L. D. 377)

Reported that the same Ought to Pass as Amended by Committee Amendment "B" (S-289).

Which report was Read.

On motion by Mr. Berry of Cumberland, tabled until later in today's session, pending Acceptance of the Committee Report.

Ought to Pass in New Draft

Mr. Greeley for the Committee on Transportation on, Bill, "An Act to Make Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1976 and June 30, 1977." (S. P. 254) (L. D. 829)

Reported that the same Ought to Pass in New Draft under Same Title (S. P. 577) (L. D. 1928)

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 Labor on, Bill, "An Act Extending Collective Bargaining Rights to University of Maine Employees." (S. P. 243) (L. D. 827)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-288).

Signed:

Senators:

ROBERTS of York
PRAY of Penobscot

Representatives:

SPROWL of Hope
LAFFIN of Westbrook
TEAGUE of Fairfield
TIERNEY of Durham
CHONKO of Topsham
SNOW of Falmouth
FLANAGAN of Portland
MARTIN of St. Agatha

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:

TARR of Bridgton

Which reports were Read.

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

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act to Increase the Maximum Penalty for Shoplifting and provide for the Detainment of Persons Suspected of Shoplifting." (S. P. 452) (L. D. 1511)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-292).

Signed:

Senators:

COLLINS of Knox
CLIFFORD of Androscoggin

Representatives:

HUGHES of Auburn
GAUTHIER of Sanford
MISKAVAGE of Augusta
BENNETT of Caribou
HOBBINS of Saco
HENDERSON of Bangor
HEWES of Cape Elizabeth
PERKINS of So. Portland
McMAHON of Kennebunk

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:

SPENCER of Standish

Which reports were Read.

Thereupon, the Majority Ought to Pass as Amended Report of the Committee was Accepted and the Bill Read Once.

Committee Amendment "A" was Read and Adopted and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Second Readers

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

House - As Amended

Bill, "An Act to Clarify Title to Land Where Marital Release is Omitted from Conveyance." (H. P. 876) (L. D. 1050)

Bill, "An Act to Clarify the Severance Pay Statute." (H. P. 1082) (L. D. 1362)

Bill, "An Act Relating to Termination of Utility Services." (H. P. 1361) (L. D. 1663)
(On motion by Mr. Speers of Kennebec, tabled until later in today's session pending Passage to be Engrossed.)

Bill, "An Act to Establish the Maine State Ferry Advisory Board." (H. P. 1308) (L. D. 1651)

(On motion by Mr. Speers of Kennebec, tabled and Tomorrow assigned, pending Passage to be Engrossed)

Bill, "An Act to Revise the Charter of the Augusta Water District." (H. P. 1427) (L. D. 1796)

Bill, "An Act Relating to the Regional Technical Vocational Centers and the Vocational Education Regions." (H. P. 1278) (L. D. 1811)

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

Senate — As Amended

Bill, "An Act Relating to the Application of the State Valuation to Certain State and Town Cost-Sharing Activities." (S. P. 256) (L. D. 832)

Which was 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 Relating to the Expediting of Procedures under the Municipal Employee Labor Relations Board. (H. P. 1169) (L. D. 1467)

Mr. Roberts of York moved that the Bill and accompanying papers be Indefinitely Postponed.

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

Mr. SPEERS: Mr. President, I wonder if we might have an explanation as to the reason for indefinite postponement of this bill?

The PRESIDENT: The Senator from Kennebec, Senator Speers, has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from York, Senator Roberts.

Mr. ROBERTS: Mr. President, this is a bill which would attempt to set stringent dates as to when procedures or when hearings would be held before Mr. Denico of the Labor Relations Board, and what it does is say that they have to hold a hearing within a certain time and they have to schedule it within a certain time. Now, the problem is that, first of all, witnesses are not always available. Secondly, they have a very limited budget and they are only allowed to have about forty cases in the whole year, and if they proceed to have to assign all these cases as they came in, by April, according to Mr. Denico, the head of the department, they would be out of funds and they wouldn't be able to hold any further hearings.

The idea is good to try to move things along, but as a practical matter it won't work. We have amended everything out of the bill except for the initial hearing scheduling, and even that apparently would run contrary to his budget because if he had to schedule everything that came in as it came in, instead of postponing it until — what he does is have a budget that operates for only about 40 cases a year, so he has scheduled it so that he assigns about ten cases every quarter, and if he got 40 requests and he had to assign them all to a hearing within 45 days, which is the way the law is now amended, in the course of three months or six months at the most, he would be out of funds and they wouldn't be able to have any more hearings. It just wouldn't work under the present set-up. That is my explanation, which I hope you can understand.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Roberts, that L.D. 1467 be indefinitely postponed. Is this the pleasure of the Senate?

The motion prevailed.

Sent down for concurrence.

An Act Relating to School Dropouts and to Potential School Dropouts. (H. P. 1442) (L. D. 1702)

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

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

On motion by Mr. Speers of Kennebec, Recessed until 3 o'clock this afternoon.

After Recess

Called to order by the President.

Orders of the Day

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

Bill, "An Act Relating to the Dredging, Filling or otherwise Altering Coastal Wetlands." (H. P. 590) (L. D. 730)

Tabled — June 6, 1975 by Senator Corson of Somerset.

Pending — Adoption of Senate Amendment "A" (S-270) to Committee Amendment "A" (H-354) pursuant to Joint Rule 21.

(In the House — Passed to be Engrossed as amended by Committee Amendment "A" (H-354) as amended by House Amendment "B" Thereof (H 554).)

(In the Senate — House Amendment "B" to Committee Amendment "A" Ruled Out of Order pursuant to Joint Rule 21.)

Mr. Corson of Somerset then moved the pending question.

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

The Chair recognizes the gentleman from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President, I move the indefinite postponement of Senate Amendment "A" and would like to speak to my motion.

The PRESIDENT: The Senator has the floor.

Mr. TROTZKY: Mr. Speaker, Ladies and Gentlemen of the House: This is another attempt being made to amend a bill which has failed to be amended twice. First of all, we have L. D. 395 which the

committee turned out ought not to pass unanimously. An amendment was then introduced in the House, and it was ruled out of order in the Senate by Rule 21. Now that same amendment is being added onto the committee amendment in another way, but most of the words are there. Again, I feel it is out of order, but I will speak to the bill itself and why I think it is not a good bill.

We enacted, first of all, back in L. D. 1206, which is now part of our law, "An Act to Authorize the Delegation by the Board of Environmental Protection of Certain Actions to the Department of Environmental Protection." What this bill did is authorize the delegation of decisions to be made by the board to the staff. One of the problems in the wetlands that this bill is addressing is the fact that there has been a great deal of delay at the DEP, and one of the reasons there has been delay at the DEP is because you had to wait in the past for the board to meet. The board met every three weeks or every month. Now the staff can handle these wetland permits. The permits we are talking about are the filling of wetlands, dredging wetlands, altering wetlands, building docks, piers and so on. So we have handled this, I feel, in a bill already. But the committee went even further with Committee Amendment "A" here, which we have adopted so far, and just quickly to review it, what we have said is that if a township wants to handle wetland permits they apply to the board. It is their option, if they want to they apply to the board. The board then establishes that that town has a planning board, a zoning ordinance, and makes determinations for prompt notice to the board.

What this committee amendment does, first of all, it starts off and states that the applicant has to put in two applications, one to the board and one for the town. One of the things we are trying to do here is to simplify things. Under the committee amendment, which we have adopted, you put your application in to the board only. And if the town is approved, then you put your application into the town. So this amendment only complicates it. Also, the committee amendment sets standards and says that if a person wants to put out a dock over a hundred square feet over the wetlands, this the town can approve, but it doesn't allow them to approve everything the way this committee amendment does. So what I feel this Senate Amendment is doing is turning everything back to the towns, and this is not the direction the committee wanted to go in all at once. We wanted to go part way. So I would urge defeat of this amendment.

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

Mr. CORSON: Mr. Speaker, Ladies and Gentlemen of the House: First, to clarify any doubt about this amendment being in order, I would point out that it has been lying on the table for three legislative days pursuant to Joint Rule 21, which is certainly what the rules require to be in order, and it is in order.

Now, I think there has been a little misunderstanding on this. The Senate Amendment which I have offered is a very conservative approach. We are simply saying let's not restrict this simply to piers. Let's let the towns handle what they can handle. The Senate Amendment which I have offered, and I would like to quote to you from it: "However, no municipality shall have the power to grant permits until

such time as it has a planning board, adopted zoning ordinances and worked up a notice procedure", exactly the same as Committee Amendment "A" does. We are simply saying that the towns should have this power if they do meet certain standards which the state is setting.

Now, I want to point out that we are not completely removing this permit procedure from the BEP. The BEP still has primary jurisdiction. If the town meets all of these requirements, it is still no guarantee that they will have the power to handle permits, as BEP can step in at any time and take it over completely on an individual basis or on all of them.

The argument about the two applications I think is somewhat specious. It simply is filling out a duplicate, which can be done very easily on a form. One is submitted to a town and one goes to the BEP as a safeguard to make sure that the BEP knows at all times exactly what is going on with every given permit in every single town.

We have had this single permit procedure going directly to the state for some time now and it obviously hasn't been working. I think we should try it this way. We have been beating these towns over the head with a stick for a long time. We want them to come to certain standards, we want them to zone, we want them to have a planning board, we want them to plan for the future. And what do we give them if they do? Nothing. I think it is time now we said, "If you do these things that we ask of you, then we will give a little bit of your municipal powers back to you. We will let you handle these things by yourselves on your level, on the local level, if you meet these certain standards." I see no danger at all in this.

This is not an attempt to weaken environmental laws, this is not an attempt to rape the environment. This is simply an attempt to expedite this procedure, to put things on a local level that can be handled safely on the local level, with plenty of safeguards. I certainly hope you will defeat the motion to indefinitely postpone.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator O'Leary.

Mr. O'LEARY: Mr. President and Members of the Senate: I would like to say in behalf of this Senate Amendment "A" that I support it wholeheartedly and make just a few comments about the Committee Amendment.

The Committee Amendment was really a compromise between those who wanted the original bill and those who would go even further. I support this amendment. I have read it thoroughly, I believe it will do the job, and I know it is what the towns want. I believe it is time as the good Senator from Somerset, Senator Corson, has said, to give these duties to the towns who have proven and will prove that they can perform.

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

Mr. McNALLY: Mr. President, I would like to ask through the Chair a question as to whether this amendment will relieve the Fisheries and Wildlife of having to see that these rules are obeyed, because I happen to know at the present time up until now that there is an amount of \$68,000 being paid out of your fishing and hunting licenses to see that these rules are obeyed.

The PRESIDENT: The Senator from Hancock, Senator McNally, has posed a question through the Chair which any Senator may answer if he so desires.

The Chair recognizes the gentleman from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. Speaker, Ladies and Gentlemen of the House: I don't know if it is this bill, but I am sure that it is in one of the bills, and what we have done is defined the jurisdiction of the DEP up to the head of tide. Going all the way up and down the rivers where there are tidal fluctuations, it would be the responsibility of the DEP. It is the DEP, I am fairly certain.

Mr. President, I would like again to speak to this bill. The Maine Legislature in 1967 passed a wetlands act, and in this act they said very specifically that it was the state's jurisdiction to rule over the wetlands. Now, the problem that we are addressing here is the fact of delay, that the DEP hasn't acted quickly on applications for permits and so on. And our committee has handled this via bill that I just mentioned where the board has delegated powers to the staff.

I also passed out to you an article that was an editorial in the Kennebec Journal on streamlining the DEP. I think this also mentions that the BEP is delegating powers to the staff.

The amendments are very similar, the amendment that Senator Corson presented and the committee amendment, but if you read through them, the basic difference is that there are no guidelines in the Senate Amendment. The Committee Amendment restricts the jurisdiction of the towns to, for example, piers and to minor repairs, but under the Senate Amendment it would open up the jurisdiction of the towns to everything. Again, I feel we are completely reversing ourselves from what the legislature before intended. So I feel we ought to take a small step now, and then if things aren't working this summer with the BEP, we can come back in special session and further amend this bill. But the committee did come out with it, as I say, unanimously.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the adoption of Senate Amendment "A" to Committee Amendment "A". The Chair will order a division.

The Chair recognizes the gentleman from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President, the motion was to indefinitely postpone.

The PRESIDENT: The Senator is right. The Chair was in error. The pending motion is the motion of the Senator from Penobscot, Senator Trotzky, to indefinitely postpone Senate Amendment "A".

The Chair will order a division. Will all those Senators in favor of the motion to indefinitely postpone Senate Amendment "A" please rise in their places until counted.

A division was had. 14 having voted in the affirmative, and 15 having voted in the negative, the motion did not prevail.

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

Sent down for concurrence.

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

Senate Reports — from the Committee on Natural Resources — Bill, "An Act to Amend the Air Pollution Standards to Expand the Definition of Treatment and to

Affirm that Projects Meeting State Air Quality and Emission Standards will not Significantly Deteriorate Existing Air Quality." (S. P. 443) (L. D. 1503) Ought to Pass as Amended by Committee Amendment "A" (S-275).

Tabled — June 9, 1975 by Senator O'Leary of Oxford.

Pending — Acceptance of Report.

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

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

Bill, "An Act Concerning the Office of Energy Resources." (S. P. 549) (L. D. 1913)

Tabled — June 9, 1975 by Senator Huber of Cumberland.

Pending — Passage to be Engrossed.

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

Senate Amendment "A", Filing No. S-285, was Read and Adopted.

Thereupon, on motion by Mr. Speers of Kennebec, tabled until later in today's session, pending Passage to be Engrossed.

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

Bill, "An Act Providing Funds for Review of the State's Civil Service System and the Classification and Compensation Plan." (S. P. 560) (L. D. 1926)

Tabled — June 10, 1975 by Senator Huber of Cumberland.

Pending — Passage to be Engrossed.

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

Senate Amendment "A", Filing No. S-293, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed.

Sent down for concurrence.

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

Bill, "An Act to Require Ferries Operating in Casco Bay to be Equipped with Radar Devices." (H. P. 1151) (L. D. 1445)

Tabled — June 10, 1975 by Senator Berry of Cumberland.

Pending — Passage to be Engrossed.

(In the House — Passed to be Engrossed as amended by House Amendment "A" (H-629).)

(In the Senate — House Amendment "A" Indefinitely Postponed, in non-concurrence.)

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

Senate Amendment "A", Filing No. S-295, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

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

Bill, "An Act Defining the Warranty of Habitability and Providing Remedies Therefor." (S. P. 272) (L. D. 878)

Tabled — June 10, 1975 by Senator Clifford of Androscoggin.

Pending — Consideration.

(In the Senate — Passed to be Engrossed as amended by Committee Amendment "A" (S-260).)

(In the House — Bill and Accompanying Papers Indefinitely Postponed, in non-concurrence.)

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

On further motion by the same Senator, the Senate voted to Recede from its former action whereby Committee Amendment "A" was Adopted.

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

Senate Amendment "A" Filing No. S-291, to Committee Amendment "A" was Read and Adopted and Committee Amendment "A", as Amended by Senate Amendment "A" Thereto was Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent up for concurrence.

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

Bill, "An Act Relating to Improved Property Tax Administration." (H. P. 882) (L. D. 1150)

Tabled — June 10, 1975 by Senator Speers of Kennebec.

Pending — Motion of Senator Merrill of Cumberland to Recede and Concur.

(In the House — Passed to be Engrossed as amended by Committee Amendment "A" (H-649).)

(In the Senate — Bill and Accompanying Papers Indefinitely Postponed, in non-concurrence.)

(Comes from the House, that Body having Insisted.)

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

Mr. WYMAN: Mr. President, I oppose this motion and if it falls, I will move to adhere and we will be able to dispose of this.

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

Mr. CYR: Mr. Speaker, Ladies and Gentlemen of the House: This was debated last week when it came before this body, and it came with a strong majority that it ought to pass. This is possibly the one time this session that I disagree with the Chairman of Taxation, but I don't believe that he is correct in his assessment of this.

What this would do, this would provide a tool for the local assessors and also the state assessors to be able to arrive at fair market value. The way it is now, the stamps are supposedly placed on the deeds. They talked, for instance, the last time that this would break the confidentiality of the records, well, I think it would do just the opposite because today the stamps are required to be affixed onto the deeds, so any member of the public can go up to the registry of deeds and find out, supposedly, what the fair market value of that property brought. However, in this bill here the stamps would be affixed to the declaration of value. You would have a form in which you would have what they call the declaration of value, and this would be reported to the local assessor back in the municipalities where that property was sold, and also to the state assessor's office. This would be held confidential, the same as your IRS forms. They are confidential and they cannot be divulged to the public.

What this would do, especially under the assessment bill which is coming up, 1917, the local assessor would be required to produce annually a sales ratio of the valuation. The only way he can really get that is through the fair value affixed onto these declarations. Otherwise, if he doesn't get it that way, the communities, after a period of five or ten years, they have a revaluation. The reason why they have a revaluation is because property, particularly during this period of inflation we have gone through, inflation has set in and has changed the value on a lot of these properties. So this would help to bring this sales ratio back into focus; otherwise, you would have to go through a very expensive revaluation study. We did one in my town in 1971 which cost us \$45,000. The local assessor could keep up without having to have a revaluation every now and then, he can keep that up himself.

For assessment purposes, for instance, we use what we call the fair value, the fair value of property. The fair value is based on the replacement cost, less physical depreciation and functional and economic obsolescence, which has to be built into that. But to be able to prove whether or not, or to keep up with this, this market value which is the transaction between the willing buyer and the willing seller, and it expresses exactly what both parties are willing to buy or sell that property for, it gives you a much better tool or much better figure to work with.

Now, as I understand it, the opposition is mostly from the registrars of deeds, and the reason for that, I am told, is that you are adding onto our work load, and yet you are not giving us any more money. Well, 15 percent of these stamps will be returned to the counties. Now, the counties can do what they want with it. If they see fit to give some to the registrar to increase his salary or give him a percentage, or whatever they want to do with it to compensate the registrar for the extra work, it is up to the counties because they will be receiving 15 percent of that.

I think this is a tool which is needed, particularly in this uniform property tax that we have. It is a tool that is essential to be able to do a good job. I will speak more about this when 1917 comes along, and I will explain to you how a sales ratio is arrived at and how equality ratio is arrived at. And to do that and do it efficiently, you need this legislation. So I hope you will reverse yourselves and vote to recede and concur with the House.

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

Mr. WYMAN: Mr. President and Members of the Senate: Once more we have the wrong tool to accomplish our purpose. This will provide that the Department of Taxation looks at the sales which have been made and they fix the value of the whole municipality on the basis of the sales that have been made, when in a great many instances the sales are made by the speculators and there is a great deal of land that is not turning over. In one town the assessor told me that only about 20 percent of the land turned over during the biennium, yet they are fixing the tax valuation for the whole municipality on the basis of this 20 percent, and the other 80 percent that doesn't turn over isn't considered at all. And as one of the members of the Municipal Evaluation Appeals Board told me, all you are looking at is the sunny side of the hill. I think we need a better measure to get at the true value of the

property rather than this tool, which I don't think is the right tool to do it, and I hope that you will vote against the bill.

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

Mr. CYR: Mr. President, I again disagree with the good Senator from Washington, Senator Wyman, that this is the wrong tool. This is the tool, this is the tool to find out exactly what the transactions that have gone on in your town are based on. The way it is now, it is more or less on the honor system. To affix stamps onto a deed is only on the honor system. And I happen to have had the experience, for instance, where I have paid the lawyer to have the deed written, and I paid for the stamps to be put on, and the stamps were not put on.

This is one of the reasons why some lawyers are in opposition to this, because it has been a good little slush fund for them. They charge their clients for the stamps and then they don't put them on, or they don't put the full value on. Now, this right here will give you the full value, and this is only a guide to find out just what is the market in your town for properties.

Now, some of you may be scared to go to 100 percent valuation. You might think that they are raising your taxes by doing that. They are not. If they increase the valuation, by the same token they are going to decrease the rate, so you can have 100 percent valuation and still have the same tax. And it isn't the assessor that makes the tax. It is the town meeting, the legislative body, that makes the tax when they appropriate money. All the assessor does is to find out what value they have in that town and divide by the amount of the budget that you have, and that is your rate. And your rate times the valuation that you have is your tax.

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

Mr. MERRILL: Mr. President and Members of the Senate: I thank my colleague, the Senator from Aroostook, for his explanation of this in his defense of my motion. As we know, he is very well trained in matters of assessing, and I think his words in that regard should be helpful.

I think that there are a couple of points that ought to be addressed directly before we vote on the recede and concur motion. I think that we have heard in fairly good detail why this bill is needed for an assessment tool. We are supposed to tax property on its market value. We asked the State Board of Equalization to figure out what kind of job each town is doing in their assessing for the purposes of all sorts of funding programs, and particularly education. It is vital that we have accurate assessment tools, not only in terms of the equity of the people who live in the same town vis-a-vis their taxation, but for the equity of one municipality to the next vis-a-vis what we decide the equalization rate should be. I don't think there is any argument about that.

I think that there are really, when you narrow it all down, three reasons why people might be against this bill. The first is the issue of confidentiality. A lot of people are just upset about the idea of having to tell anywhere in an honest way what was paid for a piece of property, and I can understand that concern and I think it is legitimate. But this bill goes as far in recognizing confidentiality as anything that we could do. It is certainly preferable to requiring that the stamps be placed in the part of the deed that will be recorded

and that the stamps be an accurate and honest reflection of the price paid. There are two copies: one goes to the state and one goes to the assessor in the town. Those are the two people that have an absolute need to know, and those are the only people that have a right to have these documents, those offices under this. So we have done as much as we can to answer confidentially.

There is a second fear, and I think that it is probably the fear in the minds of a lot of Senators here about this, and that is that this information will be misused. You are supposed to have your tax based on what the property is worth in the abstract, its fair value, and not what you might have been willing to pay for one reason or another. You might have been willing to pay much more than the property was really worth because it was a piece to complete a collection of pieces of real estate or is in a particular place that had some value to you beyond any economic value to another buyer. And I think a lot of Senators here have a concern that when that information falls into the hands of the tax assessor in the town that he will just use that information and say that is the value of the land. That is not the case, and it should not be the case. And I believe that as we move towards better tax assessing standards we can be more and more assured that it will not be the case.

What is supposed to take place and what does take place where these problems are carried out properly is that they look at the average sales — the extreme sales have dropped out of consideration — and the only purpose for which these items are used is in determining what comparable properties are selling for and measuring variations in fair market value. It is not for the purpose of looking at what Phil Merrill paid for his piece of property and saying, well, that is what it is worth and that is what it will be taxed for. So I think that though there is a legitimate concern in that area, I think it can be exaggerated and I don't think that this bill should be defeated for that reason.

There is a final reason I know some Senators are against this, and that is because some registrars of deeds were originally upset about this bill. I think they had two or maybe three reasons to be upset about it. At least two of them have been addressed in the amendment. The first one was that there was a possibility that they wouldn't receive any extra revenues and that they would have some extra work, the work of collecting these things and sending them off to the state. Well, the bill has been amended so that the tax remains the same as it ever was but the percentage that the county gets to keep goes from 10 to 15 percent. And because the filing of the declaration will necessarily improve the amount of monies collected, the counties will collect more money if we pass this bill.

The second concern of the registrars was that there was a penalty section in there; that if they inadvertently forgot to get this declaration where they were concerned that they may have been found guilty of violation of the law. We have made it very specific now by the vehicle of the amendment that they have to have made that mistake not out of inadvertence but deliberately with the intent of defeating the purpose of this law. So I really believe that when you shake out the concerns of the registrars and put them next to the bill, as amended, that they are not legitimate and that they will find that this is a much more workable procedure and may be

helpful to them in regard to increasing their revenues.

When you weigh these three concerns against the great need of this information if we are to improve the level and quality of property tax assessment in this state, I believe that it recommends highly that the Senate accept my motion to recede and concur.

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

Mr. ROBERTS: Mr. President and Members of the Senate: I will go along part way with the arguments of the good Senator from Cumberland, Senator Merrill. However, I feel, at least in the fifteen towns that I represent, that each town has three assessors and each of those three assessors, or at least their office, is going to get a copy of this confidential report. At that point I am afraid it is no longer confidential, at least not in those communities, No. 1. No. 2, I don't think that is a very strong reason for this confidentiality. It wasn't confidential before because under the federal law when you had to put documentary stamps on, these documentary stamps were required to be put on before the deed was recorded and, therefore, everybody was required to put them on. I will grant that everybody perhaps didn't put them on, but that was a matter of enforcement more than anything else.

I would also say again, as Senator Wyman has said, I think we have the wrong vehicle to do perhaps the right job, and I think the right job simply can be done by providing that we have to put our stamps on the same as we used to when the federal people had the documentary stamps, and the same as they do in our neighboring State of New Hampshire, which I am familiar with, and that is to require the stamps to go on before the deed, and the only reason you don't put a stamp on is to indicate that there is a consideration of less than 100 dollars, which under most laws doesn't require any stamps.

In this case, I think we are asking for an awful lot of work from a lot of people and I don't think it is going to accomplish very much.

As far as my registry of deeds is concerned, I know that it is going to require an additional person to handle these because they are extremely busy and have been right along. Now, if they hire this additional person, and the county is already practically bankrupt, I don't see that they are going to be turning any money that they might get, that is, that the county commissioners might get as a result of part of this tax being refunded to the counties, they are certainly not going to put it in the budget because the budgets are already allowed for the next two years. That may sound good, but it won't work out very well in my county, and I hope that you will go along with Senator Wyman's motion and indefinitely postpone.

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

Mr. MARCOTTE: Mr. President and Members of the Senate: This bill has been debated at length and I will not prolong it. However, I did want to bring out one point that has not yet been mentioned. In order to carry out this act, there is an appropriation of \$61,700 attached to this bill. I think during a period or time of hardship, if you will, is hardly the time to add another \$61,700 to our budget.

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

Mr. JACKSON: Mr. President and Members of the Senate: I have to concur with the good Senator from Aroostook when he stated that this is one of the tools that would be needed to implement, in fact, a program where fair and equitable treatment would be received throughout the State of Maine. I agree with the concept and with the bill, as amended.

Also, I think if the good Senator from York had continued on in this fiscal note, the appropriation, that there is a statement under the fiscal note that says the enactment of this bill will result in no loss of revenue to the state because increased compliance with the law will at least offset the administrative costs. I think with the function and with the amendment that this would be true. So, therefore, I would urge the members of this body to vote for this bill. I think it is needed and needed now.

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

Mr. CYR: Mr. President, when the vote is taken, I request a roll call.

The PRESIDENT: A roll call has been requested. Is the Senate ready for the question? In order for the Chair to order a roll call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call please rise in their places until counted.

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

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Berry, E.; Carbonneau, Cianchette, Conley, Corson, Cummings, Curtis, Cyr, Gahagan, Graffam, Graham, Jackson, Katz, Merrill, Reeves, Speers, Thomas.

NAYS: Senators Berry, R.; Clifford, Collins, Danton, Greeley, Hichens, Huber, Marcotte, McNally, O'Leary, Pray, Roberts, Trotzky, Wyman.

ABSENT: Senator Johnston.

A roll call was had. 17 Senators having voted in the affirmative, and 14 Senators having voted in the negative, with one Senator being absent, the motion prevailed.

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

Mr. MERRILL: Mr. President, having voted on the prevailing side, I would move that the Senate reconsider and hope that they would not support my motion.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, now moves that the Senate reconsider its action whereby it voted to recede and concur with the House. Will all those Senators in favor of reconsideration say "Yes"; those opposed say "No".

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

The President laid before the Senate the following matter which was tabled earlier in today's session by Mr. Collins of Knox:

Ought to Pass — As Amended

The Committee on Election Laws on Bill, "An Act Relating to Political Fundraising by State Employees." (H. P. 1382) (L. D. 1686) reports that the same Ought to Pass as amended by Committee Amendment "A" (H-651).

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

Pending — Acceptance of the Committee Report.

Thereupon, the 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.

Whereupon, on motion by Mr. Corson of Somerset, and under suspension of the rules, the Senate voted to reconsider its action whereby Committee Amendment "A" was Adopted and the Bill Assigned for Second Reading.

Mr. Collins of Knox then presented Senate Amendment "A" to Committee Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-296, to Committee Amendment "A" was Read and Adopted and Committee Amendment "A", as Amended by Senate Amendment "A" Thereto, was Adopted in non-concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

The President laid before the Senate the following matter which was tabled earlier in today's session by Mr. Berry of Cumberland:

Bill, "An Act to Provide for Licensing of Sternmen on Lobster and Crab Fishing Boats." (H. P. 1676) (L. D. 1923)

Pending — Adoption of House Amendment "A".

On motion by Mr. Berry of Cumberland, retabled until later in today's session, pending Adoption of House Amendment "A".

The President laid before the Senate the following matter which was tabled earlier in today's session by Mr. Berry of Cumberland:

Senate

Ought to Pass — As Amended

Mr. Thomas for the Committee on Business Legislation on Bill, "An Act Relating to the Registration and Practice of Professional Engineering." (S. P. 112) (L. D. 377) reports that the same Ought to Pass as Amended by Committee Amendment "B" (S-289).

Pending — Acceptance of the Committee Report.

On motion by Mr. Berry of Cumberland, retabled until later in today's session, pending Acceptance of the Committee Report.

The President laid before the Senate the following matter which was tabled earlier in today's session by Mr. Speers of Kennebec:

Bill, "An Act Relating to Termination of Utility Service." (H.P. 1361) (L. D. 1663)

Pending — Passage to be Engrossed.

Mr. Roberts of York then moved that the Bill be Indefinitely Postponed.

The PRESIDENT: The Senator has the floor.

Mr. ROBERTS: Mr. President and Members of the Senate: As you know, this has been spoken on two or three times, and I will be brief, but I wish to speak primarily from the standpoint of the telephone company, which I think perhaps is more severely hurt than the other two utilities, which would be the light and water companies.

As you know, they bill, first of all, a month in arrears, which means you have a

month in which to run up your telephone bill. Secondly, there is another period of from 23 days, as the minimum, up to 55 days before they will take any action on any unpaid telephone bills, which allows at least another month before they are giving a notice that they are discontinuing the service. Now, this notice that they give is a seven-day notice, which in turns adds seven more days onto the period, during which time you can either pay the bill or you can go in to the company and try to make what arrangements you may be able to make to pay the bill. And as long as you are able to make reasonable arrangements, they certainly will continue your service and allow you to make payments on the overdue bill.

They provide, as you all know, a service which permits you to telephone all over the world, and as a consequence, if anybody is particularly upset with the telephone company and they know that they are going to have this opportunity to run up a bill, they certainly can run up a tremendous bill by telephoning everywhere not only in the country but around the world, as far as that goes, and there is no way that the telephone company can stop them or prevent this. If they did, then they would be questioning each and every one of us every time we put in a toll call as to whether we are in a position to pay for it, and obviously that isn't the kind of service that they give and that isn't the sort that they would be expected to give.

Now, another part of the bill says that the company is supposed to notify by registered mail the people whose service they are going to discontinue, and this seems like a real small item and you wouldn't really think that it amounted to much, but you will be surprised, I think, at the figures I am about to quote. As you know, there is a cost of 30 cents postage in order to register a letter. Now, it isn't clear in the bill whether or not it would require a return receipt. If it required a return receipt from the people who were notified, it would add another 15 cents to the cost. But this past year in the State of Maine alone they have sent out over 199,000 such notices. Based on that basis, there would be a cost involved simply in the postage of \$89,000 in the State of Maine in one year. Now, that cost obviously is going to have to be borne by you and I or the subscribers to the telephone service who pay our bills. The same thing would be true of loss of revenue by permitting people to go on and run up larger bills and fail to pay their bills.

I feel that a company that operates on a trust everybody basis, which is simply what it amounts to when they allow everyone to make their phone calls, should be allowed to protect itself. And it seems to me if you have got at least two months' notice or a chance to go two months on your bills before you have to pay them, that it is not being at all unreasonable. It was brought out, I believe, in previous arguments that they require deposits. Well, they do require deposits, but those deposits are primarily required on commercial phones, which bills run much, much larger. I have never personally, and I have four different telephones, been required to make any kind of a deposit or file any kind of a report with them whatsoever, and I think that is true of the great, great majority of the people.

I hope that you would vote for my motion to indefinitely postpone this bill and all its accompanying papers.

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

Mr. GRAHAM: Mr. President and Members of the Senate: This is a very exciting moment for me, I am like a club house fighter matched with Mohammed Ali. I find that whenever I introduce a utility bill or support one that the New England Telephone Company's answering service is very quick and swift.

I feel that this bill, which would establish regulations for the termination of utility service is very important. As it is now, terminations are arbitrary and discriminating. And these terminations are effected with the greatest hardship to many people: In my files I have lists of people who signed affidavits telling of what great hardships these terminations cause to them. These disconnections take place sometimes in ten days, sometimes in a longer period, sometimes without notice, sometimes by a mistake, sometimes with people who are sick, and sometimes — I have an affidavit from a family where the lady in the house was pregnant and the services were cut off. Now, that might not seem to be important with the telephone, but with the other utilities it is very important.

Why the telephone company should be so worried about this phantom caller, this man who calls Honolulu just to get back at the telephone company — first of all, the telephone company can sue him in court. Second, they themselves, as the previous speaker just mentioned, allow a 55 or maybe 60-day interim, so that if a man or person is devoted to taking revenge on the telephone company, he can do it in that earlier period. With this bill and its amendment, we are merely raising the period to a total of 80 days.

Perhaps the most important thing about this bill, I think, is that it would require these termination notices to be sent by certified mail, yes, which is important, I think. I think it is important for people to know that their services are going to be terminated. Many of these cases that testified at a PUC hearing indicated they didn't even know that they were going to be terminated. I think it is important for them to know, and in this bill a very important feature is added; namely, the information is given that these people have certain rights, even though they are delinquent, such rights as the right to have a hearing before the PUC. This information is available but very rarely is it given to the customer who is delinquent.

They also have a right to know that they have a 14-day medical emergency period when the services cannot be shut off. It is also important for them to know where they can pay their bill and important for them to know that they can pay the bill in installments.

So I think this bill is very important for consumers and I hope you will vote against the motion.

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

Mr. CONLEY: Mr. President, I would like to pose a question through the Chair to the Secretary of the Senate as to how this bill was reported out of committee.

The PRESIDENT: The Senator from Cumberland, Senator Conley, requests the Secretary to read the committee report.

The SECRETARY: The majority of the Committee on Public Utilities, to which

was referred the Bill, "An Act Relating to Termination of Utility Service", reported that the same Ought to Pass, as Amended by Committee Amendment "A". Signed, Representative Gray, Senator Cummings, Senator Greeley, Senator Cyr, Representatives Nadeau, Saunders, Tarr, Berry, Spencer, Leonard and Lunt.

The Minority of the same committee on the same subject matter reported that the same Ought Not to Pass. Signed Representatives Littlefield and Kelleher.

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

Mr. CONLEY: Mr. President, I stand to oppose the motion made by the good Senator from York, Senator Roberts. To me, it is just another one of the bills that have come through this chamber on which it is apparent to anyone who is sitting here that any type of consumer legislation dealing with the utility companies of this state can be defeated with a very easy posture on the part of the lobbyists.

Now, it seems to me, or at least it was apparent to me, that when the motion was made, had the Senator from Cumberland, Senator Graham, not gotten up to speak in favor of this particular measure, that there would not have been a whimper from one member of the Public Utilities Committee who apparently signed the almost unanimous report of the committee and they would have allowed this bill to go under the gavel.

Not to prolong the measure, but I think the good Senator from Cumberland, Senator Graham, has made excellent points as to why this bill should be kept alive. And because of the fact that I think it is a measure that is deeply concerned with consumers, I would ask that the "Yeas" and "Nays" be taken.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Cumberland, Senator Graham.

Mr. GRAHAM: Mr. President, I would like to make it clear that this arbitrary custom that the utilities have of cutting off, terminating public utility services is a great hardship on many of our citizens, particularly our low income citizens, who often do not know their rights, for whom money is very scarce, and for whom electricity and water are not a luxury but a necessity. And these necessities of life can be shut off at the whim of some supervisor or manager.

For instance, a gentleman from the New England Telephone Company testified at a recent PUC hearing that as many as 40 or 50 people were involved, 40 or 50 people who under their own impulse could order a termination. And people have testified under oath that their utilities were terminated despite reasonable offers of installment payment or good faith in the existence or the validity of the bill; they weren't sure that there was such a bill. There was one lady whose electricity was turned off because she hadn't paid her bill, they said, but she had paid her bill. Other people were cut off because a former spouse had not paid the bill, a bill for which these ladies were not responsible. Other people terminated owed but small amounts of money. Still others were terminated for bills at a previous residence. And very often the terminations followed little warning or no warning.

Now, let me say in favor of this bill, under a uniform disconnection policy, the customer and the company must arbitrate

the dispute. This would reduce the number of terminations, which would be better for customers and better for utilities themselves, and it would save money.

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

Mr. GREELEY: Mr. President and Members of the Senate: I signed the report ought to pass, but I would like to inform the Senate that Greeley has changed his mind and I am going to vote with the Senator from York, Senator Roberts.

The PRESIDENT: Is the Senate ready for the question? A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question before the Senate is the motion by the Senator from York, Senator Roberts, that the Senate indefinitely postpone L. D. 1663 and all its accompanying papers. A "Yes" vote will be in favor of indefinite postponement; a "No" vote will be opposed.

The Secretary will order the roll.

ROLL CALL

YEAS: Senators Berry, E.; Berry, R.; Carbonneau, Collins, Corson, Gahagan, Graffam, Greeley, Hichens, Huber, Jackson, Katz, Roberts, Speers, Thomas, Wyman.

NAYS: Senators Clifford, Conley, Cummings, Curtis, Cyr, Danton, Graham, McNally, Merrill, O'Leary, Pray, Reeves, Trozky, Sewall.

ABSENT: Senators Cianchette, Johnston, Marcotte.

Mr. Katz of Kennebec was granted leave of the Senate to change his vote from "Yes" to "No".

Mr. McNally of Hancock was granted leave of the Senate to change his vote from "No" to "Yes".

A roll call was had. 16 Senators having voted in the affirmative, and 14 Senators having voted in the negative, with three Senators being absent, the Bill was Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

Committee of Conference

On the disagreeing action of the two branches of the Legislature on Resolution, Proposing an Amendment to the Constitution to Abolish the Executive Council and Reassign its Constitutional Powers to the Governor, (H. P. 16) (L. D. 24), the President appointed the following Conferees on the part of the Senate:

Senators:

COLLINS of Knox
BERRY of Cumberland
DANTON of York

Papers from the House

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

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 Vikings of Searsport High School and Coach Robert L. Tufts State Class C

Baseball Champions for the Academic Year 1974-75

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. 1693)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

Mr. Greeley of Waldo was granted unanimous consent to address the Senate.

Mr. GREELEY: Mr. President and Members of the Senate: I was very pleased to know that Searsport won the State Championship. I was rather sorry though to hear that Greeley was beaten, but maybe I will get accustomed to it some day.

Orders

On motion by Mr. Curtis of Penobscot, WHEREAS, the state personnel system, including job classifications and pay, performance evaluations, job examinations, job specifications and the organization of the Personnel Department itself, is antiquated and in need of fundamental updating and restructuring; and

WHEREAS, the demands of equal opportunity affirmative action plans, the collective bargaining law and the standards set by federal law for all state personnel systems lend urgency to this necessary evolution of the personnel system; and

WHEREAS, this updating and restructuring of the personnel system can be most effective if performed by neutral personnel specialists from outside the ambit of state government; now, therefore, be it

ORDERED, the House concurring, that the Legislative Council is directed to employ professional consultants to recommend changes, and the means by which such changes would be effected, in the methods and structure of the state personnel system; and be it further

ORDERED, that a report of the study together with recommendations and legislation deemed necessary be made to a special session of the 107th Legislature or to the 108th Legislature; and be it further

ORDERED, that prior to the Legislative Council's solicitation of any consultant's offer, the Committee on State Government shall study what areas of the personnel system the consultant's report should analyze, the goals such a report should fulfill, and its approximate cost and shall advise the Legislative Council on the precise nature of the contract it will make with the consultant; and be it further

ORDERED, that the Committee on State Government report its findings to the Legislative Council on the nature of the contract to be made as soon as possible during the current session. (S. P. 578)

Which was Read.

On motion by Mr. Speers of Kennebec, tabled pending Passage.

Committee Reports

House

Leave to Withdraw

The Committee on Judiciary on, Bill,

"An Act to Clarify the Statutes Relating to Criminal Offenses under the Initiative and Referendum Process." (H. P. 322) (L. D. 396)

Reports that the same be granted Leave to Withdraw.

The Committee on Transportation on, Bill, "An Act Granting the Maine Port Authority Certain Powers with Respect to Acquiring, Operating and Leasing Certain Railroad Equipment." (H. P. 1193) (L. D. 1489)

Reports that the same be granted Leave to Withdraw.

The Committee on Local and County Government on, Bill, "An Act to Phase Out the Present Form of County Government, Transfer its Functions to other Government Units and to Direct the State's Advisory Commission on Intergovernmental Relations to Make Recommendations to the Special Session of the 107th Legislature." (H. P. 1445) (L. D. 1819)

Reports 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.

Divided Report

The Majority of the Committee on Appropriations and Financial Affairs on, Bill, "An Act to Require the Payment of AFDC Benefits for Unborn Children." (H. P. 1608) (L. D. 1887)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-703).

Signed:

Senator:

MARCOTTE of York

Representatives:

GOODWIN of Bath

JALBERT of Lewiston

LeBLANC of Van Buren

SMITH of Dover-Foxcroft

CARTER of Winslow

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

Signed:

Senators:

HUBER of Cumberland

GAHAGAN of Aroostook

Representatives:

GARSOE of Cumberland

MacLEOD of Bar Harbor

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

Which reports were Read.

Mr. Huber 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. HUBER: Mr. President and Members of the Senate: The Commissioner of the Department of Health and Welfare, I believe, honestly is trying to redistribute AFDC funds on a better measure of need. A March 18 Supreme Court decision said that the AFDC payments for unborn children were not mandatory and left this to the discretion of the states.

Commissioner Smith feels that roughly \$300,000 per year, as well as the \$150,000 per year shown in the bill, would be required in state funds to fund this program. Considering the 30-70 match on AFDC programs, this means about one million dollars per year to be distributed to AFDC recipients on a better measure of

need than simply the fact of being pregnant.

The people who are already on AFDC will receive prenatal care. Those under 21 will receive prenatal care also. The difference between the cost of prenatal care and the AFDC payment again, as I say, would be redistributed according to need.

The only people who would not be covered by one program or another, the Commissioner estimates, would be about 52 people, and he finds that in his B-6 program for unwed mothers there are \$55,000 available to serve this need.

I think this is undercutting the legitimate attempts of the Commissioner of the Department of Health and Welfare to try and make the maximum use of AFDC funds based on need, and I think we are talking about substantial sums which could be so redistributed.

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

Mr. GAHAGAN: Mr. President and Members of the Senate: You will note that this is one of the very few divided reports that has come out of the Committee on Appropriations and Financial Affairs. I think that it is only fitting that I make a few comments on this bill.

What we have here is a basic difference of opinion on the amount of services which are being provided by the Department of Health and Welfare and whether or not they are meeting the needs of the clients of that department.

Throughout the budget hearings of the Department of Health and Welfare, we have been working very closely with the Commissioner of Mental Health and Corrections and the Department of Health and Welfare to make sure that this budget does meet human needs in the first year, at least, of this biennium. And we have trusted and worked very closely with Commissioner Smith and Commissioner Rosser.

This report represents a difference of opinion between the clients of an agency of the Department of Health and Welfare as to whether or not human needs are being met, and I think we have here an example of a very articulate constituency of one department of state government who has been able to get a divided report out of a committee because they feel that their people need more money. Well, Mr. President and Members of the Senate: there are people in state government and people who are clients of the Department of Health and Welfare and Mental Health and Corrections who also would like to have additional money in this biennium.

We have been assured by Commissioner Smith that the needs of the unborn children are being met under his current budget, and if we have trusted him thus far, I believe we should trust him in this statement that he has made to us in the committee that those needs were being met.

In the Department of Mental Health and Corrections, on the other hand, the constituency of that department is not an articulate constituency. The children at Pineland Hospital, for example, or the people who are in our state mental health and correctional institutions do not have a constituency to work on a committee of the legislature, such as that of Appropriations and Financial Affairs, to get a divided report such as the one that you have in front of you.

I think, Mr. President and Members of

the Senate, that we should accept the Ought Not to Pass Report and give the commissioners of both those departments the opportunity to run through the budgets as they have been presented to us, and if there are problems in meeting human need throughout the summer months, that we can at that time come back in the special session and deal with these problems through funding.

If we allow this bill to go through with a price tag on it as it is, I believe we have opened the door for other needs to be brought before this session of the legislature. There is an additional need of \$500,000 in the Department of Mental Health and Corrections. Every department could use more money. The question we have is: are we meeting basic needs? And we are meeting basic human needs with this program. I would urge you to accept the Ought Not to Pass Report of this Committee.

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

Mr. CONLEY: Mr. President, I would assume that the good Senator from Aroostook, Senator Gahagan, was referring to Item 6-4 on Supplemental Calendar No. 2, L. D. 1887?

The PRESIDENT: The Chair would advise the Senator in the affirmative.

Mr. CONLEY: Thank you, Mr. President. I would like to address myself solely and directly to that item, and not the needs of the Department of Mental Health or the Department of Health and Welfare, because I think what we have to determine here today is whether or not this state is going to continue to appropriate money for the unborn child under the AFDC program.

The only reason that we have an L. D. before us today is because the United States Supreme Court has made a ruling stating that as long as no statutory language was provided in all of the states, then the Department of Health and Welfare was not obligated to fund AFDC mothers for unborn children. The State of Maine, in what I consider to be one of its brightest moments, has looked upon this in the past as being a very concerned and very important part of the AFDC program.

To me, when we speak about this particular program, we find it, each and every one of us, difficult at times to give it 100 percent support because we hear allegation after allegation after allegation of the cheats, the frauds, those who are taking advantage of the system, those who are cheating on every turn of the corner. But I ask you to look at L. D. 1887 in your book, read the emergency preamble as it is outlined, and then get to the real meat of the bill, which is the language that states, "For purposes of the Aid for Dependent Children Program, as administered in the State of Maine, unborn children shall be defined as dependent children and shall receive the same benefits and entitlements as all other dependent children."

And the statement of fact very clearly states that "The purpose of this bill is to make unborn children eligible for AFDC payments in order to accomplish the purposes set forth in the emergency preamble."

The emergency preamble clearly states and calls your attention to the fact that the unborn child depends very, very heavily upon the health of the mother, whereas there has been considerable question as to whether Aid to Dependent Children

Benefits should be paid for the unborn children.

I personally feel very strongly on this particular bill. I feel strongly that we should be concerned with the unborn child, and because of some fact in life or some problem that has arisen within that particular family that has created the hardship and the problems that they are under, that this legislature is not going to face up to what I consider to be a moral responsibility in the support of this particular program.

Now, I know that leadership along with the Chairman of the Appropriations Committee of both houses met relative to the change in the financing of the present AFDC program, and with a great deal of reluctance, because of the fact that there was a statement of people who are under social security, and normally as they are covered today under the AFDC, under the new regulations that would be implemented by the Commissioner, that these individuals would have been dropped out. We were able to restore that particular portion within the budget so that those people will not be financially hurt.

I am certainly one of those who is willing to go along and wait and see as to how the full implementation of the program does come about and how it does work, and as to whether or not there are going to be many individuals hurt or who are going to be dropped from the rolls. I personally would like to see the AFDC rolls down to zero, because once that is done we will know that there is full employment in this state and we will know that many of our domestic problems have ceased, and many other things will have turned about.

To address myself again specifically to the bill before us, and not the AFDC program as a whole, but to that of the right of the unborn child and the health, welfare and fitness of that mother, I would hope the Senate would vote against the motion to accept the minority report. And Mr. President, when the vote is taken, I would ask that it be taken by the "Yeas" and "Nays".

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

Mr. BERRY: Mr. President and Members of the Senate: I am sorry that the good Senator from Cumberland, Senator Conley, had to ask the Chair what item we were talking about because if he had been listening to the good words from Senator Gahagan and Senator Huber, he would have had a full lucid explanation of why the committee reported the way it did.

I have been paying attention to the debate from its beginning, and I note with considerable interest that we have a partisan report. Now, this is extremely unfortunate.

As Senator Huber pointed out, the Commissioner of the Department, Commissioner Smith, who is one of the new jewels in the firmament, has brought some new life into what certainly up to now has been a complete maze for most of us in the legislature who have been trying to understand the operations of the department as it was previously run. And why I say I lament that Senator Conley was not paying attention was because he would have learned that Commissioner Smith said that he has, is, and will take care of these people. And to try to imply that the Republican members of the committee and the Republican members of the legislature don't care anything

about unborn children is so diametrically opposed to the facts that it hardly warrants mention. So it is because of this I do lament the fact that he did not absorb what the two good Senators, Huber and Gahagan, did talk about.

I had intended to move for the roll call because I feel it important that we go on record that we all recognized the facts and, having recognized the facts, we cast our votes. And I hope that we would cast our votes in favor of the ought not to pass motion of Senator Huber.

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

Mr. MARCOTTE: Mr. President and Members of the Senate: I supported the Majority Ought to Pass Report of the Committee because I felt it was a matter of conscience and basic philosophy as to whether or not we were going to disenfranchise the unborn child or make him eligible for coverage under AFDC. In all good conscience, I just had to support the eligibility of the unborn children.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: It seems to me that making payments of AFDC benefits for unborn children is probably one of the best investments the state could make for the health of the children as they are born, and most likely would result in a decrease in benefits in the future.

The second thing I would like to say is that it seems to me that the decision on the funding of this bill should come at the time that it is taken off the Appropriations Table, so that this vote really should be a vote to move it along in the process so that we can later make a decision on the funding. Thank you, Mr. President.

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

Mr. CONLEY: Mr. President and Members of the Senate: It is not unusual that the good Senator from Cumberland, Senator Berry, takes exception to some of the remarks that I make on this floor, but today I think it is perhaps because he and I are both wearing somewhat the same colored shirt and tie.

I would like to say that it is not unusual for Senator Berry and I to also debate this particular measure, as we have done in many, many sessions in the past. I recall very vividly that the good Senator from Cumberland, Senator Berry, vastly supported the so-called stepfather clause of the AFDC program some years ago which was defeated in this branch.

As to the reasons why there is a divided report from the Appropriations Committee, I think only those members of the Appropriations Committee could speak to that. It certainly was not done at my urging or the urging of any other member of the Democratic leadership. But I again feel and would express to the Senate that I think it is a moral obligation that we have, one that we continue on with, not one to be taken off the books because it was never there on the books, a policy and a practice that has been ongoing in this state for a number of years. And for us to all of a sudden just arbitrarily — arbitrarily — remove because of the fact that there is no statutory language on the books that the Department of Health and Welfare does not have to continue to support this particular segment of the program, I think would be a moral disgrace. So once again I

would ask the Senate to vote against the minority report.

The PRESIDENT: Is the Senate ready for the question? A roll call has been reported. In order for the Chair to order a roll call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call please rise in their places until counted.

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

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Berry, R.; Collins, Corson, Cummings, Curtis, Cyr, Gahagan, Graffam, Greeley, Hichens, Huber, Jackson, Katz, McNally, Pray, Roberts, Speers, Thomas Trotzky, Wyman.

NAYS: Senators Berry, E.; Carbonneau, Cianchette, Clifford, Conley, Danton, Graham, Johnston, Marcotte, Merrill, O'Leary, Reeves.

A roll call was had. 20 Senators having voted in the affirmative, and 12 Senators having voted in the negative, the Minority Ought Not to Pass Report of the Committee was Accepted.

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

Mr. HUBER: Mr. President, I now move that we reconsider our action on this bill and hope you will vote against me.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now moves that the Senate reconsider its action whereby it accepted the Ought Not to Pass Report. Will all those Senators in favor of reconsideration please say "Yes"; those opposed will say "No".

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

Committee of Conference Report

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill, "An Act Concerning the Size of Municipal Populations in the Statute Requiring or Authorizing the Appointment of Boards of Registration." (H. P. 752) (L. D. 927) ask leave to report: that they are unable to agree

On the part of the House:

BERRY of Buxton
BOUDREAU of Portland
BIRT of East Millinocket

On the part of the Senate:

BERRY of Cumberland
JACKSON of Cumberland
CYR of Aroostook

Which report was Read and Accepted.

Orders

On motion of Mr. Greeley of Waldo,
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 Members of the United States Coast Guard Exhibited in the Successful Search and Rescue of Arthur Vigeant and Maurice Dodge of Belfast on June 10, 1975

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. 579)

Which was Read.

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

Mr. GREELEY: Mr. President and Members of the Senate: I want to give the Senator from Cumberland, Senator Berry, credit for drafting this order, and I also want to thank the same Senator for giving me the privilege of introducing the order. Evidently the Coast Guard did an outstanding job. It happened to be at the right place at the right time.

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

Thereupon, the Order received Passage.
Sent down for concurrence.

Communications

STATE OF MAINE

One Hundred and Seventh Legislature
Committee on Performance Audit

June 11, 1975

Honorable Joseph Sewall
President of the Senate
Senate Chamber

A u g u s t a , M a i n e 0 4 3 3 3
Dear Senator Sewall:

It is with pleasure that I report to you that the Committee on Performance Audit has completed all actions necessary on the business placed before it by the 107th Legislature.

Total number of bills presented	12
Leave to Withdraw	6
Ought to Pass as Amended	5
Ought Not to Pass	1
Referrals	1
Total number of amendments	5

Respectfully,

Signed:

RICHARD N. BERRY
Senate Chairman

Which was Read and Ordered Placed on File.

The President laid before the Senate the following matter which was tabled earlier in today's session by Mr. Speers of Kennebec:

Bill, "An Act Concerning the Office of Energy Resources." (S. P. 549) (L. D. 1913)

Pending — Passage to be Engrossed.

Mr. Roberts of York then presented Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-301, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed.

Sent down for concurrence.

The President laid before the Senate the following matter which was tabled earlier in today's session by Mr. Berry of Cumberland:

Bill, "An Act to Provide for Licensing of Sternmen on Lobster and Crab Fishing Boats." (H. P. 1676) (L. D. 1923)

Pending — Adoption of House Amendment "A".

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

Senate Amendment "A", Filing No. S-299, to House Amendment "A" was Read and Adopted and House Amendment "A" as Amended by Senate Amendment "A" Thereto, was Adopted.

Thereupon, under suspension of the rules, the Bill, as Amended, was given its Second Reading and Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the following matter which was tabled earlier in today's session by Mr. Berry of Cumberland:

Senate

Ought to Pass — As Amended

Mr. Thomas for the Committee on Business Legislation on Bill, "An Act Relating to the Registration and Practice of Professional Engineering." (S. P. 112) (L. D. 377) reports that the same Ought to Pass as Amended by Committee Amendment "B" (S-289).

Pending — Acceptance of the Committee Report.

Thereupon, on motion by Mr. Berry of Cumberland, the Committee Report was Accepted and the Bill Read Once. Committee Amendment "B" was Read and Adopted and the Bill, as Amended, Tomorrow Assigned for Second Reading.

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