

# 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**

(First Special Session)

OF THE

STATE OF MAINE

**1976**

KENNEBEC JOURNAL  
AUGUSTA, MAINE

**SENATE**

Thursday, April 1, 1976

Senate called to order by the President.  
Prayer by Rabbi Harold Jaye, Temple Beth Jacob, Lewiston:

Holy God, author of law and ruler of nature, as we look about us at the beauty of Thy creation, we cannot help but be impressed and inspired by the natural wonders of the world. In this state in which we are privileged to live, sea and coast, mountains and forests, dazzling snow and warm spring breezes all show forth the variety and grandeur of Thy handiwork. As order pervades nature, providing for the changes of times and seasons, so is it seen in Thy moral law which imposes control upon human conduct regulating relations among individuals, it serves to allow for the greatest human development, while protecting all those who submit to its rule. May these worthy Senators, servants of the people be guided by a sure sense of the moral law, so that they might in their legislative activity reflect the purpose of those natural laws which are eternal. We ask Thy blessing upon them and upon all citizens of the State of Maine. Amen.

Reading of the Journal of yesterday.

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

Bill, "An Act to Provide for More Effective Debt Management and for more Effective Administration of the State's Development Financing Capability." (H. P. 1816) (L. D. 1974)

In the House March 29, 1976, Passed to be Engrossed as Amended by House Amendment "E" (H-1121).

In the Senate March 30, 1976, Bill and accompanying papers Indefinitely Postponed, in non-concurrence.

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

On motion by Mr. Curtis of Penobscot the Senate voted to Adhere.

**Non-concurrent Matter**

Bill, "An Act Relating to Property of Survivor where Joint Deposits or Accounts are Involved." (S. P. 664) (L. D. 2102)

In the Senate March 25, 1976, Passed to be Engrossed as Amended by Committee Amendment "A" (S-460).

Comes from the House. Passed to be Engrossed as Amended by Committee Amendment "A", as Amended by House Amendments "A" (H-1101) and "B" (H-1147). Thereto, in non-concurrence.

On motion by Mr. Speers of Kennebec, tabled until later in today's session, pending consideration.

**Non-concurrent Matter**

Resolve, for Laying of Additional County Taxes for the Year Nineteen Hundred and Seventy-six and to Authorize Certain Reallocations to Conform with Line Budget Statutes. (H. P. 2053) (L. D. 2230)

In the Senate March 31, 1976, Passed to be Engrossed as Amended by Committee Amendment "A" (H-1124), in concurrence.

Comes from the House. Passed to be Engrossed as Amended by Committee Amendment "A", as Amended by House Amendment "A" Thereto (H-1176), in non-concurrence.

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

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

**Non-concurrent Matter**

Bill, "An Act to Revise the Maine Criminal Code as Recommended by the Criminal Law Revision Commission." (S. P. 777) (L. D. 2334)

In the Senate March 30, 1976. Passed to be Engrossed as Amended by Senate Amendments "A" (S-488), "B" (S-495) and "C" (S-496).

Comes from the House. Passed to be Engrossed as Amended by Senate Amendments "A", "B" and "C" and House Amendments "C" (H-1162), "D" (H-1170), "E" (H-1171) and "F" (H-1174), in non-concurrence.

On motion by Mr. Collins of Knox, tabled until later in today's session, pending consideration.

**Communications**

State of Maine  
One Hundred and Seventh Legislature  
Committee on Marine Resources  
March 31, 1976

Honorable Joseph Sewall  
President of the Senate  
State House  
Augusta, Maine 04333  
Dear Sir:

It is with pleasure that I report to you that the Committee on Marine Resources has completed all action necessary on the business placed before it by the Special Session of the 107th Legislature.

Total Number of Bills Presented	7
Unanimous Reports	5
Ought to Pass	1
Ought to pass as Amended	3
Ought to Pass in New Draft	1
Divided Reports	2
Total Number of New Drafts	1

Sincerely yours,

Signed: RICHARD N. BERRY  
Senate Chairman

Which was Read and Ordered Placed on File.

State of Maine  
One Hundred and Seventh Legislature  
Committee on Natural Resources  
March 31, 1976

The Honorable Joseph Sewall  
President of the Maine Senate  
State House  
Augusta, Maine 04333  
Dear President Sewall:

The Committee on Natural Resources is pleased to report that it has completed all business placed before it by the Special Session of the 107th Legislature.

Total Bills Received	13
Unanimous Reports	6
Leave to Withdraw	1
Ought to Pass	0
Ought Not to Pass	1
Ought to Pass, Amended	4
Divided Reports	7

Respectfully,

Signed: HOWARD M. TROZKY  
Senate Chairman

Which was Read and Ordered Placed on File.

March 31, 1976

Honorable Harry N. Starbranch  
Secretary of the Senate  
107th Legislature  
Augusta, Maine

Dear Mr. Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Concerning the Geologist and Soil Scientist Certification Act" (H. P. 1993) (L. D. 2182).

Representatives:  
DeVANE of Ellsworth  
PEAKES of Dexter  
BOWIE of Gardiner.

Respectfully,

Signed: EDWIN H. PERT  
Clerk of the House  
Which was Read and Ordered Placed on File.

March 31, 1976

Honorable Harry N. Starbranch  
Secretary of the Senate  
107th Legislature  
Augusta, Maine  
Dear Mr. Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Permit Local Plumbing Inspectors to Approve Repairs to Existing Septic Systems" (H. P. 2206) (L. D. 2306):

Representatives:  
BLODGETT of Waldoboro  
PETERSON of Caribou  
CHURCHILL of Orland

Respectfully,

Signed: EDWIN H. PERT  
Clerk of the House

Which was Read and Ordered Placed on File.

**Senate Papers  
Joint Resolution**

Mr. Greeley of Waldo presented the following Joint Resolution and moved its adoption:  
STATE OF MAINE

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

**IN MEMORIAM**

Having Learned of the Death of Clarence A. Paul of Belfast Who Served Thirty-six Years as County Commissioner and was an Outstanding Citizen

The Senate and House of Representatives of the State of Maine do hereby extend their sincere heartfelt condolences and sympathy to the bereaved family and friends of the deceased; and further

While duly assembled in session at the State Capitol in Augusta under the Constitution and Laws of the State of Maine, do herein direct that this official expression of sorrow be forthwith sent to the family of the deceased on behalf of the Legislature and the people of the State of Maine. (S. P. 786)

Which was Read.

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

Mr. GREELEY: Mr. President and Members of the Senate: I would just like to mention that Mr. Paul was born in the Town of Morrill, and at one time during his term of office all three members of the county commissioners serving at the same time were born in Morrill.

The PRESIDENT: Is it now the pleasure of the Senate that this Joint Resolution be adopted and sent down for concurrence?

It is a vote.

**Orders**

On motion by Mr. Greeley of Waldo,  
STATE OF MAINE

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

WHEREAS, The Legislature has learned of the Outstanding Achievement, and Exceptional Accomplishment of Lytle Annie Wood of Morrill Recognized by the Maine Extension Association as the Outstanding Community Leader for 1976

Where 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. 784)

Which was Read and Passed.  
Sent down for concurrence.

On motion by Mr. Greeley of Waldo,  
STATE OF MAINE

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

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Elizabeth Bailey Keller of Knox Recognized by the Maine Extension Association as the Outstanding Homemaker for 1976

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. 785)

Which was Read and Passed.  
Sent down for concurrence.

#### Committee Reports House

##### Ought to Pass in New Draft

The Committee on Judiciary on, Bill, "An Act to Revise the Laws Relating to the Maine Traffic Court." (H. P. 2023) (L. D. 2202)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 2257) (L. D. 2327).

Comes from the House, the Bill in New Draft Passed to be Engrossed as Amended by House Amendments "A" (H-1144), "B" (H-1155) and "C" (H-1160).

Which report was Read.

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

Mr. CIANCHETTE: Mr. President, I wonder if there would be somebody from the committee kind enough to give us the highlights of what this actually does.

The PRESIDENT: The Senator from Somerset, Senator Cianchette, has posed a question through the Chair to any member of the Judiciary Committee who may care to answer.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President and Members of the Senate: In the regular session we passed a revision of our traffic laws as recommended by a special commission that had been set up by the 106th Legislature. After the passage of that act, there came a ruling from the Attorney General that interpreted the use of certain words so that the point system for the revocation of drivers' licenses was no longer applicable to many of the violations in the traffic code. For this reason, it was decided to take a new look at the entire traffic code. The Secretary of State established a committee to work on parts of that problem relating to his office, on which committee I served, along with Judge Ross of the District Court and others representing law enforcement and state government.

At the same time the Attorney General's Office went to work on the entire traffic code. They had not participated in the earlier work because the original report of the commission had been drawn up by outside consultants who were not thoroughly familiar with some of our State of Maine programs.

The Attorney General's Office helped the Judiciary Committee to repair some of the holes in the traffic code. For example, we have now made speeding 30 miles over the limit a crime. Before this revision it was a traffic infraction handled through the courts on a civil basis. We have tied in once more the revocation

of drivers' licenses as the principal enforcement tool with respect to traffic offenses. We have made a number of housekeeping cosmetic changes that I will not try to describe. We have clarified some of the relationships between the Secretary of State's Office and the driver with respect to hearings and revocation. We have provided that in cases where a temporary permit is needed to tow a vehicle, for example, to a garage, that that permit may be granted by a local police officer, a full-time officer, within his municipality. Previously it was necessary to go to the state police for such a temporary permit.

In general we have, I think, met all the criticisms that were made by the state police, by local police, by the Secretary of State and by the newspapers in our traffic laws, and we hope that this is going to make for a much more efficient administration of those laws.

The PRESIDENT: Is the Senate ready for the question?

Thereupon, the Ought to Pass in New Draft Report of the Committee was Accepted in concurrence and the Bill in New Draft Read Once. House Amendment "A" was Read and Adopted in concurrence. House Amendments "B" and "C" were Read and Adopted in concurrence.

Thereupon, under suspension of the rules, the Bill, as Amended, was Read a Second Time and Passed to be Engrossed in concurrence.

##### Divided Report

Six members of the Committee on Education on, Bill, "An Act Relating to the Effective Dates for School Lunch Programs and Occupational Safety and Health in Public Employment." (H. P. 2207) (L. D. 2307)

Reported in Report "A" that the same Ought to Pass as Amended by Committee Amendment "A" (H-1106).

Signed:

Senator:

THOMAS of Kennebec

Representatives:

POWELL of Wallagrass

BAGLEY of Winthrop

CARROLL of Limerick

FENLASON of Danforth

LYNCH of Livermore Falls

Four members of the same Committee on the same subject matter reported in Report "B" that the same Ought Not to Pass.

Signed:

Senator:

BERRY of Androscoggin

Representatives:

MITCHELL of Vassalboro

INGEGNERI of Bangor

CONNOLLY of Portland

Three members of the same Committee on the same subject matter reported in Report "C" that the same Ought to Pass.

Signed:

Senator:

KATZ of Kennebec

Representatives:

LEWIS of Auburn

TYNDALE of Kennebunkport

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

Which reports were Read.

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

Mr. KATZ: Mr. President and Members of the Senate: The Senate can clearly see that this was not completely a unanimous opinion of the Committee on Education.

This is a very simple bill but a very controversial one. It came out of the Governor's Office and it was directed to the deferring of two programs which are mandated by the state. One is the school lunch program, which requires elementary schools to have facilities for hot lunch programs, and the other was the im-

plications of the federal OSHA program for public employees.

The Report "A", which was signed by Senator Thomas, accepts the notion that the mandatory school lunch program should be deferred from 1978 to 1980, and the reason for that point of view is rather simple. When we have put a moratorium on school construction, it will be literally impossible for some schools to meet the requirements of the law if there are no dollars available to them to expand or create facilities for hot lunch programs.

The report that I signed not only accepted the point of view of Senator Thomas but also suggested that the requirements of OSHA, which are presently slated to be met no later than 1977, be deferred one year until 1978. The OSHA program pertains to lots more than public schools, and during the hearing it became quite apparent to the Education Committee that we wanted input from the Committee on Labor, and we put the question to them as to whether or not they felt that the OSHA section of it should be deferred for one year. And as I recall it, the report of the Committee on Labor was either unanimous or heavily weighted towards the fact that they did not wish to defer the OSHA segment. The OSHA compliance is going to cost millions of dollars around the state in fire departments and other public employee segments, and that is pretty much the clear choice that is presently before the Senate today. Just to crystalize the debate, I would like to make the motion that Report "C" be accepted, and if you support Report "C", you will be saying that the hot lunch program will be deferred from 1978 to 1980 and the requirements of OSHA for public employees will be deferred from 1977 by one year to 1978.

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

Mr. BERRY: Mr. President and Members of the Senate: I admit my somewhat non-expertise in this particular area, and I would ask some guidance from some of my fellow Senators. As far as the ought to pass report, I am in concurrence with the good Senator from Kennebec, after doing my homework with the Department of Education and Cultural Services, but I think the difference is, if I understand the good Senator, in the fact that the House amendment that was attached to the ought to pass report, which I am also in agreement with, and that amendment was to remove the occupational safety and health provision of the L. D. as being beyond the scope of the Education Committee to decide. I don't think that committee should make that decision. We did ask for a recommendation from the Committee on Labor, and I would like to have that recommendation, if we may.

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

Mr. CIANCHETTE: Mr. President and Members of the Senate: I would like to speak to the aspect of delaying the OSHA requirements another year. I really don't understand any justification for delaying the requirements that the public bodies don't meet the requirements of OSHA. It is mandated by the federal government and we have good state laws now strengthening the OSHA program, the Occupational Safety and Health Act. I think it is a very important act. I think it has done a great deal to promote and encourage safety in public works programs and all kinds of construction, mills, factories, every place in the state. Right now the public sectors are exempt from this law, and they are really not doing a very good job with their safety programs. They have another whole year — they have had a year already to start preparing — another whole year to get prepared, and I just don't see how we can justify postponing that very important act another year. For that reason, I would op-

pose the motion to accept Report "C" that does in fact delay the OSHA requirements in public programs.

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

Mr. CONLEY: Mr. President and Members of the Senate: I too wish to oppose the acceptance of Report "C". I am concerned primarily because I think this legislature and past legislatures have tried to recognize the problems of nutritional balance for all children throughout the state. I would state that since the hot lunch program was passed by the previous legislature, 34 Maine schools have come into compliance and have received \$293,000 in federal funds and capital assistance. The same assistance from an open-ended program is available to the 63 Maine schools which are not yet in compliance. These schools serve 11,500 Maine children. 41 of these schools have enrollments of more than 100 children.

One might disagree with the concept of open-ended federal programs, but it should be noted that the Child Nutrition Act of 1975, which is the expanded federal version of the national school lunch program, had the unanimous support of Maine's congressional delegation in overriding the presidential veto.

I am somewhat surprised, in a sense, to have the Chairman of Education, the good Senator from Kennebec, Senator Katz, make his motion this morning in the manner to accept Report "C". I would recall just a couple of statements made in the past legislature by the good Senator, and I quote: "Basic to the philosophy of the bill is the fact that 38 percent of the labor force in the State of Maine is women, and many youngsters just don't get any hot food because they go into school in the morning, and many youngsters don't have a home to go to at noon-time because the mother is working. This may be the first hot food in their little bellies all day. It is a compassionate bill. It generates a very substantial amount of federal dollars to improve the nutritional balance prospects for Maine's young people."

Another quote: "I suggest, ladies and gentlemen, that this is a very, very modest bill. Most schools in the state are doing this now, and you might say the bill gives equal protection under the law to all youngsters, whether or not they come from the City of Augusta or the City of Portland."

"This is just another reminder that passage of well intentioned legislation to benefit children is no guarantee that children can be served." United States Senator Walter Mondale, speaking to this subject from his vantage point, similar to Senator Katz, as a respected authority both on education and on youth. I would remind the Senate today we are not delaying the open burning of dumps; what we are talking about is a nutritional food program for children throughout this state, and I hope you would vote against the motion.

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

Mr. ROBERTS: Mr. President and Members of the Senate: As the good Senator from Kennebec, Senator Katz, said, this particular bill, which is a very simple little thing of about four or five pages, has a section 2 that seemed to be about as close there, in fact you would think it is quite appropriate that we are talking about it today, because you would think it was an April Fool's thing. It doesn't have anything to do with education that I can see, but nevertheless it is in there, a little hooker that would postpone by a year the putting in of the OSHA requirements in the public sector.

Mr. Cooper from the Manpower Affairs has been traveling all over the state now for a little over a year going into one community after another and explaining what they would have to do to qualify for OSHA and what changes they

would have to make. One of the most obvious ones is that they would have to buy a few hardhats for people that are going to work where they might be injured by falling objects. Also, almost all your communities do a certain amount of digging in the streets in the summertime for water mains, sewers, and that sort of thing, and where they use private industry they have to be very careful how their holes are shored up and make sure people don't get buried with sand and don't get injured by cave-ins and that sort of thing. At least in my community we have a certain amount of equipment and we do a lot of digging ourselves, and every now and then somebody gets practically buried. Fortunately, we haven't killed anyone yet, but that is because we are not required to operate under OSHA and wouldn't be for another year if this were extended.

Senator Katz asked me, as Chairman of the Labor Committee, to find out how our committee felt about it, so I called our committee into session and we had 11 out of the 13 members that were present and they were unanimously in favor of not extending the effective date for OSHA from July 1, 1977 to July 1978. I certainly hope if we pass Senator Katz's motion that we do it after we have amended out the OSHA requirement, because certainly the towns are being educated and this is coming along and it would be sort of foolish for us to say, well, we can pass it on for another year, and maybe one or two people would get killed which certainly could have been avoided if these precautions were taken.

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

Mr. THOMAS: Mr. President and Members of the Senate: I signed Report "A" for the simple reason, as the good Senator from Kennebec, Senator Katz, mentioned, this came from the Governor's office but it was two bills: one is the school lunch program and the other is the OSHA program, and I think the statement of fact on Committee Report "A" is self-explanatory. "The purpose of this amendment is to remove the occupational safety and health provisions of the L. D. as being beyond the scope of the Education Committee to decide." I certainly don't know too much about OSHA, and we felt that this point should be decided by the Labor Committee. So if you vote for Report "A", section 2, which is OSHA, is out of the bill. Therefore, I urge you to defeat the motion of Senator Katz.

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

Mr. KATZ: Mr. President and Members of the Senate: The Senator from Kennebec, Senator Thomas, is right on mark, that if you would like to delete OSHA you vote against my motion and then vote for Report "A". With respect to the comments of the Senator from Cumberland, Senator Conley, who quoted my rather, I thought, excellent speech of last session which apparently was extremely influential, I stand by those remarks today just as I did then. There is only \$550,000 in the budget this year for capital construction, and that is reserved for emergency situations such as boilers blowing up and roofs getting blown off school systems. There is very real doubt in my mind, whether or not you defer this or don't defer the hot lunch program, as to whether or not there is vaguely enough money to fund the creation of the facilities that are needed in the remaining schools to assure hot lunch programs. So maybe it is academic in any respect.

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

Mr. MERRILL: Mr. President and Members of the Senate: I would like to make two quick observations in regard to whether or not we should accept Report "C", which would have

the effect of eliminating the OSHA requirement for state employees. The first one is simple equity. We have imposed OSHA on the private sector, the federal government has done it. They didn't at the same time impose OSHA on the public sector; that is what we did in the regular session. I think that there is a question of equity in requiring it of businesses big and small and not requiring it of the state. I think in fairness, if it is a good idea, it ought to be applied to the public sector as well as the private.

Secondly, Senator Katz makes the remark that in order to comply with OSHA it is going to cost a considerable amount of money, and I think in the short term this observation is correct. I would just like to share with the Senate, the remarks that were handed on by a manager of a big business in York County a little while ago. In talking about the effect of OSHA on his business, he pointed out that at first it seemed like quite an expense and he had been against it, however, they had been working under OSHA for several months and the result in that business had been that they had saved a considerable amount of money in the long term. They saved that money because they had less people out of work because of accidents and because they had reflected a savings in what the insurance company had to pay out in terms of accidents on the job.

We have in the regular session given even greater protection to some employees, mainly people who work for fire departments, in regards to their rights under occupational safety, and I think in the long term the effect of imposing OSHA is going to be a savings of money as well as a savings of limbs and in some cases lives. So I think in the long term we are going to save money, and maybe more importantly, we are going to make for safer working conditions for those people who work in the public sector as well as those people who work in the private sector, and I would urge the Senate to defeat the motion of the good Senator from Kennebec, Senator Katz.

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

Mr. Reeves of Kennebec then moved that the Bill and all accompanying papers be Indefinitely Postponed.

The PRESIDENT: The Senator from Kennebec, Senator Reeves, now moves that the Senate indefinitely postpone L. D. 2307 and all accompanying papers.

The Chair will order a division. Will all those Senators in favor of the indefinite postponement of this bill please rise in their places until counted. Those opposed will please rise in their places until counted.

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

The PRESIDENT: Is it now the pleasure of the Senate to accept Report "C", Ought to Pass? The Chair will order a division. Will all those Senators in favor of accepting the Ought to Pass Report "C" of the Committee please rise in their places until counted. Those opposed will please rise in their places until counted.

A division was had. Seven having voted in the affirmative, and 21 having voted in the negative, the motion did not prevail.

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

#### Divided Report

The Majority of the Committee on Election Laws on, Bill, "An Act Relating to the Form of Ballots." (H. P. 2063) (L. D. 2233)

Reported that the same Ought to Pass.

Signed:

Senators:

CORSON of Somerset  
BERRY of Cumberland

Representatives:

KENNEDY of Gray  
SHUTE of Stockton Springs  
MACKEL of Wells  
DURGIN of Kittery  
BOUDREAU of Portland  
CALL of Lewiston  
TALBOT of Portland  
BUSTIN of Augusta  
BIRT of East Millinocket

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-1096).

Signed:

Senator:

O'LEARY of Oxford

Representative:

FAUCHER of Solon

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

Which reports were Read.

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

Thereupon, under suspension of the rules, the Bill was Read a Second Time and Passed to be Engrossed in concurrence.

**Senate****• Ought to Pass in New Draft**

Mr. Clifford for the Committee on Judiciary on, Bill, "An Act to Provide for an Associate Administrative Court Judge and to Revise the Administrative Court Law." (S. P. 734) (L. D. 2283)

Reported that the same Ought to Pass in New Draft under New Title: "An Act to Provide for the Position of Associate Administrative Court Judge and to Revise the Administrative Court Law" (S. P. 783) (L. D. 2338)

Which report was Read and Accepted and the Bill in New Draft Read Once.

Thereupon, under suspension of the rules, the Bill in New Draft was Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

**Enactors**

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

An Act Relating to Mental Health and Retardation Programs in the Department of Mental Health and Corrections. (S. P. 698) (L. D. 2222)  
An Act to Establish a Potato Lien Law. (S. P. 775) (L. D. 2328)

(On motion by Mr. Speers of Kennebec, tabled until later in today's session, pending enactment.)

An Act to Prohibit Payment of Dependency Allowance to Persons with a Spouse Employed Full Time. (H. P. 2118) (L. D. 2267)

An Act to Change County Budgets to an Annual Basis. (H. P. 2094) (L. D. 2253)

An Act to Enable Counties to Hire County Administrators. (H. P. 2092) (L. D. 2251)

An Act to Clarify the Labor and Industry Statutes. (H. P. 2259) (L. D. 2332)

An Act to Clarify and Strengthen the Statute Governing Current Use Taxation of Farmland. (H. P. 2258) (L. D. 2330)

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

An Act Providing for Protective and Supportive Services for Mentally Retarded Persons. (H. P. 2069) (L. D. 2239)

On motion by Mr. Hichens of York, and under

suspension of the rules, the Senate voted to reconsider its prior action whereby the Bill was Passed to be Engrossed.

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

Senate Amendment "A", Filing No. S-499, was Read and Adopted and the Bill, As Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

**Emergency**

An Act to Clarify Various Statutes Relating to Superior Court Fees and Costs. (H. P. 1866) (L. D. 2037)

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

**Paper from the House**

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

**Joint Order**

ORDERED. The Senate concurring, that a bill, "An Act Concerning the Workmen's Compensation Statutes," be recalled from the Governor's Office to the House. (H. P. 2046, L. D. 2218) (H. P. 2272)

Comes from the House Read and Passed.

Which was Read and Passed in concurrence.

**Committee of Conference**

On the disagreeing action of the two branches of the Legislature on Bill, "An Act Relating to Costs in Contested Cases and Depositions in Probate Court." (S. P. 709) (L. D. 2236), the President appointed the following Conferees on the part of the Senate:

Senators:

COLLINS of Knox  
CLIFFORD of Androscoggin  
MERRILL of Cumberland**Committee of Conference**

On the Disagreeing action of the two branches of the Legislature on Bill, "An Act to Permit Local Plumbing Inspectors to Approve Repairs to Existing Septic Systems", (H. P. 2206) (L. D. 2306), the President appointed the following Conferees on the part of the Senate:

Senators:

BERRY of Cumberland  
TROTZKY of Penobscot  
CARBONNEAU of Androscoggin**Committee of Conference**

On the disagreeing action of the two branches of the Legislature on Bill, "An Act to Establish the Dates of Legislative Sessions and to Clarify Laws Relating to Expenses of Legislators", (S. P. 663) (L. D. 2087). The President appointed the following Conferees on the part of the Senate:

Senators:

CURTIS of Penobscot  
KATZ of Kennebec  
GRAHAM of Cumberland**Committee of Conference**

On the disagreeing action of the two branches of the Legislature on Bill, "An Act Relating to the Geologists and Soil Scientists Certification Act", (H. P. 2240) (L. D. 2322), the President appointed the following Conferees on the part of the Senate:

Senators:

BERRY of Cumberland  
CYR of Aroostook  
O'LEARY of Oxford**Committee of Conference**

On the disagreeing action of the two branches of the Legislature on Bill, "An Act to Regulate Drinking Water", (S. P. 687) (L. D. 2198), the President appointed the following Conferees on the part of the Senate:

Senators:

CUMMINGS of Penobscot

GRAVELEY of Waldo  
CYR of Aroostook**Committee of Conference**

On the disagreeing action of the two branches of the Legislature on Bill, "An Act Enabling Municipalities to Conduct Soil Tests to Determine Feasibility of Solid Waste Disposal Sites", (H. P. 1948) (L. D. 2134), the President appointed the following Conferees on the part of the Senate:

Senators:

WYMAN of Washington  
GRAHAM of Cumberland  
CORSON of Somerset

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

On motion by Mrs. Cummings of Penobscot, Recessed until 3:00 o'clock in the afternoon.

**After Recess**

Called to order by the President.

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

**Enactors**

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

**Emergency**

RESOLVE, for Revising of Amounts of County Taxes for the Year Nineteen Hundred and Seventy-six. (H. P. 2063) (L. D. 2230)

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

**Papers From the House**

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

**Study Report — Committee on Health and Institutional Services**

The Committee on Health and Institutional services to which was referred the study relative to Require the Department of Human Services to Reopen the Itinerant Office in Belfast, pursuant to H.P. 2014 of the 107th Legislature, have had the same under consideration and ask leave to submit its findings and to report that the accompanying Resolve to Require the Department of Human Services to Reopen the Itinerant Office in Belfast (H. P. 2269) (L. D. 2336) be referred to this Committee for public hearing and printed pursuant to Joint Rule 3.

Comes from the House, the report Read and Accepted and the Bill referred to the Committee on Health and Institutional Services.

Which was Read.

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

**Joint Resolution  
STATE OF MAINE**

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

**IN MEMORIAM**

Having Learned of the Death of Miss Barbara Carol Doody of Caribou, Maine

The Senate and House of Representatives of the State of Maine do hereby extend their sincere heartfelt condolences and sympathy to the bereaved family and friends of the deceased; and further

While duly assembled in session at the State Capitol in Augusta under the Constitution and Laws of the State of Maine, do herein direct that this official expression of sorrow be

forthwith sent to the family of the deceased on behalf of the Legislature and the people of the State of Maine. (H. P. 2268)

Comes from the House. Read and Adopted. Which was Read and Adopted in concurrence.

**Joint Order  
STATE OF MAINE**

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

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of W. Henry Allen of Hebron Maine's Outstanding Farmer for 1976 As Cited by the Maine Extension Association

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. 2271)

Comes from the House. Read and Passed. Which was Read and Passed in concurrence.

**Communications  
State of Maine**

One Hundred and Seventh Legislature  
Committee on Performance Audit

April 1, 1976

Honorable Joseph Sewall  
President of the Senate  
Senate Chamber  
Augusta, Maine 04333  
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	4
Ought to Pass	3
Ought to Pass as Amended	1
Unanimous Reports	4

Respectfully,

Signed:

**RICHARD N. BERRY**  
Senate Chairman

Which was Read and Ordered Placed on File.

State of Maine  
One Hundred and Seventh Legislature  
Committee on Fisheries and Wildlife

April 1, 1976

The Honorable Joseph Sewall  
President of the Maine Senate  
State House  
Augusta, Maine 04333  
Dear President Sewall:

It is with pleasure that I report to you that the Committee on Fisheries and Wildlife has completed all actions necessary on the business placed before it by the Special Session of the 107th Legislature.

Total Number of Bills Presented	5
Unanimous Reports — Ought to Pass as amended	1
Leave to Withdraw	2
Divided Reports	2

Respectfully,

**SEN. CECIL H. McNALLY**  
Chairman

Which was Read and Ordered Placed on File.

Edwin H. Pert  
Clerk  
Maine  
House of Representatives  
Augusta, Maine 04333  
April 1, 1976

Honorable Harry N. Starbranch  
Secretary of the Senate  
107th Legislature  
Augusta, Maine

Dear Mr. Secretary:

The House voted today to Adhere to its former action whereby it failed to finally pass RESOLUTION, Proposing an Amendment to the Constitution to Permit the Governor to Veto Items Contained in Bills Appropriating Money and to Permit the Legislature to Override All or Part of Such a Veto by a Two-Thirds Vote of Each House.

Respectfully,  
**EDWIN H. PERT**  
Clerk of the House

Which was Read and Ordered Placed on File.

**Orders**

On motion by Mr. Speers of Kennebec,  
State of Maine

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

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Stan Cowan Of Orono High School Named Outdoor Track Coach Of The Year For 1975

We the Members of the Senate and House of Representatives do hereby Order that our congratulations and acknowledgment 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. R. 101)

Which was Read and Passed  
Sent down for concurrence.

**Committee Reports  
House**

**Leave to Withdraw**

The Committee on Appropriations and Financial Affairs on, Bill, "An Act to Reduce the Cost of the Program to Protect Forest Land against Insects and Disease." (H. P. 1903) (L. D. 2090)

Reports that the same be granted Leave to Withdraw.

Comes from the House, the report Read and Accepted.

Which was Read and Accepted in concurrence.

**Ought to Pass in New Draft**

The Committee on Transportation on, Bill, "An Act Amending the Motor Vehicle Title Law." (H. P. 1869) (L. D. 2040)

Reports that the same Ought to Pass in New Draft under New Title: "An Act Correcting Errors and Inconsistencies in Motor Vehicle Related Laws" (H. P. 2270) (L. D. 2337).

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

Which report was Read and Accepted in concurrence and the Bill in New Draft Read Once.

Thereupon, under suspension of the rules, the Bill in New Draft was Read a Second Time and Passed to be Engrossed in concurrence.

**Divided Report**

The Majority of the Committee on Fisheries and Wildlife on, Bill, "An Act to Clarify the Fish and Game Laws." (H. P. 1933) (L. D. 2121)

Reports that the same Ought to Pass as Amended by Committee Amendment "B" (H-1050).

Signed:

Senators:

McNALLY of Hancock  
GRAFFAM of Cumberland  
Representatives:

KAUFFMAN of Kittery  
PETERSON of Caribou  
CHURCHILL of Orland  
MILLS of Eastport  
WALKER of Island Falls

The Minority of the same Committee on the same subject matter reports that the same Ought to Pass as Amended by Committee Amendment "A" (H-1049).

Signed:

Senator:

PRAY of Penobscot

Representatives:

USHER of Westbrook  
MARTIN of St. Agatha  
MacEACHERN of Lincoln  
DOW of West Gardiner  
TOZIER of Unity

Comes from the House, the Majority report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "B", as Amended by House Amendments "A" (H-1068), "B" (H-1163), "C" (H-1164), "D" (H-1172) and "E" (H-1175).

Which reports were Read.

Mr. Pray of Penobscot moved that the Senate accept the Minority Ought to Pass as Amended by Committee Amendment "A" Report of the Committee.

Mr. McNally of Hancock requested a division on the motion.

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

Mr. KATZ: Mr. President, this issue is not only blessed by two reports but a number of amendments, and I would appreciate some light on it.

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

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Members of the Senate: The basic difference between Committee Amendment "B" and Committee Amendment "A", or the majority report and minority report, is three factors:

One, in committee report "A", there is a section of the bill which would have the increase on snowmobiles be one dollar. Last year the Fish and Game Committee raised it an additional \$2.50.

The second difference between the two bills is that Committee Amendment "A" has a pheasant stamp program being reinitiated and report "B" does not.

The third difference is on hunting bear with dogs. It allows them to use six dogs. Last year we went from 10 to 4. In the 106th Legislature they went from no limit to a 10 limit, and then we had a bill go through last year that lowered it to 4. During the summer a number of individuals, farmers, who either hunt bear with dogs or own crops and were suffering from bear damage came in and requested that it be lifted back up to 8, and the committee decided to do it at 6 for the purpose of allowing them to train a couple of young dogs for that sport or whatever you want to call it. Some people make a living off it.

That is the difference between Committee Amendment "B" and Committee Amendment "A".

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

Mr. McNALLY: Mr. President, I was a little bit slow getting onto my feet, and it is my own fault, but I was trying to sort out the different amendments here, and one amendment doesn't seem to go with what is put on here. But if you accept Committee Amendment "A", what you are doing is cutting out from this department approximately \$106,000. Now, according to the best projections of the department, they will

have as of July 1st of this year approximately a million dollars on hand, and of this, \$350,000 must be working capital. And since most of the money don't come in until October, November and December, they will need to be able to dip into the rest of it, the remainder there, plus what would be received, including all the raises in the license fees, which includes your snowmobiles to be \$12.50 instead of \$11, since that \$1.50 makes \$106,000 difference to them, and those fees will be lost.

The department is running in the red now, the wardens are rationed on gas, there are no new vehicles to be bought, they are going along with that 7 percent reduction which most of the departments have been obliged to do, or I guess all the departments have been obliged to do. They do not replace any retiring wardens. They know at the present time that twenty-two could retire if they wanted to because the present law on the books says that once they have worked twenty years they may retire at 50 percent of their three highest years. And there was a bill passed in the last session which said that the wardens or the state police, if they had worked more than twenty years, after January 1st of 1977 they will get 2 percent more. So they are afraid instead of fifteen wardens retiring on their own, and they would have that much less money through attrition, that the wardens will stay right on and that will require more money out of what they have in their fund and that they will need all of the funds for it.

Now, there is a bill I understand somewhere in one of the houses which would make this present law on the books effective as of July 1, 1976, and then wardens who have worked more than twenty years would receive 2 percent more than the 50 for each year that they had worked over the twenty. So they know that if the law isn't changed they are going to have some pretty tough sledding due to the fact that every one of the percents — supposing that you give 6.4 percent to the people that are working for the state now, they know that that costs about \$3,750 for each percent, so if you had 10 percent that you are going to pay the state employees, then you have got to take out of dedicated funds approximately \$375,000. So I urge you to vote against the minority report and let us go along with the majority report of the committee.

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

Mr. GRAHAM: Mr. President and Members of the Senate: I want to join with Senator McNally from Hancock in urging you to reject the Minority Report "A" and then vote for the Majority Report "B". This Minority Report "A" does contain an object which I find most odious; namely, it again increases the number of dogs that may chase bear in the woods. We have this larger pack of dogs now that will be rampaging through the woods in this cruel and brutal sport. We voted against this last time, and I hope we are not going to reverse ourselves and vote in favor of this sport which should end rather than be increased again. As you know, we have some southern hunters who come to Maine to hunt bear with dogs. Why don't they hunt bear in the south with dogs? Because it is forbidden in most southern states.

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

Mr. SPEERS: Mr. President, I certainly don't want to address myself to specific items within these amendments, however, I do want to point out that it seems to me each one of these specific items was debated pretty carefully in the last session of this legislature. The title of this bill is an Act to Clarify the Fish and Game Laws; it certainly seems to me that each one of these particular items in this amendment is a pretty substantive change in the law.

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

Mr. PRAY: Mr. President, I would like to ask a question through the Chair to the majority leader. Is he discussing the amendments that were put on in the House, or is he discussing

Committee Amendment "A" and Committee Amendment "B"?

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from Penobscot, Senator Pray, that the Senate accept the minority ought to pass as amended report of the committee.

The Chair will order a division. Will all those Senators in favor of accepting the minority ought to pass as amended report please rise in their places until counted. Those opposed will rise in their places until counted.

A division was had. Six having voted in the affirmative, and 19 having voted in the negative, the motion did not prevail.

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

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

Mrs. SPEERS: Mr. President, I would ask a question through the Chair to any Senator who wishes to answer as to the substance of the particular amendments that are being placed on the committee amendment?

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

Mr. McNALLY: Mr. President, this is one of the things that I was trying to look up. Due to the fact that we had our picture taken, I am afraid that I wasn't fortunate enough to receive this supplemental journal in order to get together the different amendments and read them before this was taken up, but that is neither here nor there. I don't understand, from reading this quickly and looking at what the original bill is, whereby House Amendment "A", 1068, I don't see where it applies because the original bill has the stamp for one dollar, and there is no raise in there for the present stamp. I don't know just what good the amendment is, but I am not against it if it is all right to leave it in. It just simply says that the stamp can't be increased in price, and the original bill says that too.

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

Mr. PRAY: Mr. President, do I understand that House Amendment 1068 is before us at this time?

The PRESIDENT: The pending question is the adoption of House Amendment "A" to Committee Amendment "B".

Mr. PRAY: Mr. President, I move the indefinite postponement of House Amendment "A".

The PRESIDENT: The Senator from Penobscot, Senator Pray, now moves that the Senate indefinitely postpone House Amendment "A". Is this the pleasure of the Senate?

The motion prevailed.

House Amendment "B" to Committee Amendment "B" was Read and Adopted in concurrence.

House Amendment "C" to Committee Amendment "B" was Read.

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

Mr. SPEERS: Mr. President, in trying frantically to keep up with the House amendments with regard to this bill and the filing numbers, I have found House filing 1164, and it states that this amendment strikes from the committee amendment that portion deleting from the bill the section concerning the pheasant stamp. I wonder if any member of the Fish and Game Committee might explain what the portion concerning the pheasant stamp states.

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

Mr. McNALLY: Mr. President, Committee Amendment "B" says that there will be no pheasant stamp, if I understand the way it reads. The majority report, Committee Amend-

ment "B", says that the pheasant stamp would be deleted. I think that is 1050, and that is what I was scrambling around here for, trying to get out the book.

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

Mr. CONLEY: Mr. President, I honestly believe that there are so many amendments on this bill that I would almost like to send it back to committee, but I wish some member of the body would move that it be tabled until tomorrow so we can have a chance to look this thing over.

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

Thereupon, on motion by Mr. Speers of Kennebec, tabled and Tomorrow Assigned, pending Adoption of House Amendment "C" to Committee Amendment "B".

#### Divided Report

The Majority of the Committee on Veterans and Retirement, on Bill, "An Act to Clarify the Retirement Statutes" (H. P. 1860) (L. D. 2027)

Reports that the same Ought to Pass as Amended by Committee Amendment "A" (H-1105).

Signed:

Senators:

COLLINS of Knox  
CLIFFORD of Androscoggin  
O'LEARY of Oxford

Representatives:

MORTON of Farmington  
CURTIS of Rockland  
MACEACHERN of Lincoln  
LEONARD of Woolwich  
NADEAU of Sanford  
THERIAULT of Rumford  
USHER of Westbrook  
KELLEY of Machias  
LAVERTY of Millinocket

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

Signed:

Representative:

POWELL of Wallgrass

Comes from the House, the Majority report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A", as Amended by House Amendment "B" (H-1133) Thereto.

Which reports were Read.

The Majority Ought to Pass as Amended Report of the Committee was Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read. House Amendment "B" to Committee Amendment "A" was Read.

Mr. Collins of Knox then moved that the Bill be tabled and Tomorrow Assigned, pending Adoption of House Amendment "B" to Committee Amendment "A".

Thereupon, on motion by Mr. Speers of Kennebec, tabled until later in today's session, pending Adoption of House Amendment "B" to Committee Amendment "A".

#### Senate

#### Divided Report

The Majority of the Committee on Veterans and Retirement, on Bill, "An Act Relating to a Cost-of-Living Adjustment for State Retirees." (S. P. 618) (L. D. 1950)

Reports that the same Ought to Pass as Amended by Committee Amendment "A" (S-507).

Signed:

Senators:

COLLINS of Knox  
CLIFFORD of Androscoggin  
O'LEARY of Oxford

Representatives:

KELLEY of Machias  
LEONARD of Woolwich  
LAVERTY of Millinocket  
NADEAU of Sanford  
MACEACHERN of Lincoln



CURTIS of Rockland  
 THERIAULT of Rumford  
 MORTON of Farmington  
 USHER of Westbrook

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

Signed:

Representative:

POWELL of Wallagrass

Which reports were Read.

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, under suspension of the rules, the Bill, as Amended, was Read a Second Time.

Thereupon, on motion by Mr. Speers of Kennebec, tabled and Specially Assigned for April 5, 1976, pending Passage to be Engrossed.

#### Enactors

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

An Act Relating to Community-based Facilities for Children and Adults. (H. P. 2142) (L. D. 2282)

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

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

Bill, "An Act Relating to Property of Survivor where Joint Deposits or Accounts are Involved." (S. P. 664) (L. D. 2102)

Tabled — April 1, 1976 by Senator Speers of Kennebec

Pending — Consideration

(In the Senate — Passed to be Engrossed as Amended by Committee Amendment "A" (S-460).)

(In the House — Passed to be Engrossed as Amended by Committee Amendment "A", as Amended by House Amendments "A" (H-1101) and "B" (H-1147) There to, in non-concurrence.)

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

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

Bill, "An Act to Revise the Maine Criminal Code as Recommended by the Criminal Law Revision Commission." (S. P. 777) (L. D. 2334)

Tabled — April 1, 1976 by Senator Collins of Knox

Pending — Consideration

(In the Senate — Passed to be Engrossed as Amended by Senate Amendments "A" (S-488), "B" (S-495) and "C" (S-496).

(In the House — Passed to be Engrossed as Amended by Senate Amendments "A", "B", and "C" and House Amendments "C" (H-1162), "D" (H-1170), "E" (H-1171) and "F" (H-1174), in non-concurrence.)

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

Mr. COLLINS: Mr. President, I would like to make a parliamentary inquiry. Several amendments have been added to this bill in the other body, and it is my understanding that the Senator from Cumberland, Senator Merrill, wishes to offer motions relating to one of these amendments, and I wish to offer an amendment to House Amendment "E". Would the Chair advise us as to the proper procedure?

The PRESIDENT: Is it now the pleasure of the Senate to recede from its former action whereby the bill was passed to be engrossed? It is a vote.

Whereupon, House Amendment "C" was Read and Adopted in concurrence, and House Amendment "D" was Read.

Mr. Merrill of Cumberland then moved that House Amendment "D" be Indefinitely Postponed.

The PRESIDENT: The Senator has the floor.

Mr. MERRILL: Mr. President and Members of the Senate: The criminal code revision bill, as it comes back from the other body with the amendments on it, would differ in several respects, two of which are relevant to the discussion here.

The criminal code, as it was originally written and as it would be amended by the passage of the bill recommended by the committee, would impose no mandatory sentences. The philosophy on the part of the committee in regards to that was, first, that the judicial branch would be in the best position to make a judgment in each individual case as to what punishment should be handed out. And it will be noted by those who are students of the past law and of the law as it will be changed by the code that in many instances those punishments that can be handed out by the court will be greater than they were in the past, representing a feeling on the part of the committee that some of these crimes could be and should be in many cases treated more seriously by the judiciary. Also, changes that have taken place in the courts due to the court revision have made it so now we can say that the punishments in many cases are handed out sooner, which is equally important to those of us interested in teaching a lesson to those who violate the law.

Also, the revisions in the code, as they have been suggested by the committee and as they have been amended here by the Senator from Androscoggin, Senator Clifford, place a much higher priority than in the past on the courts seeing to it that it can get restitution for the victims of the crime, not only to serve the victims, obviously, but to make that one of the elements of punishment. It is the feeling of the committee that restitution is a punishment that is not handed out often enough to those people who engage in crimes against property.

What we have before us in House Amendment "D" is an amendment which would impose a mandatory sentence in the cases of people convicted of burglaries for the second time. We will consider in just a few moments an amendment which has been offered by the House which is an amendment which would put into effect mandatory jail sentences for those people who commit crimes with a firearm. Now, there is a general philosophy on the part of those of us on the committee, and I think on the part of many in the legislature, as I stated earlier, that all mandatory sentences are probably not desirable. There is a recognition from those of us who are engaged in criminal law that when you demand a mandatory sentence that you are not ending the discretion of the penal process in whether or not the person will go to jail, because what you do is that you allow still, of course, prosecutorial discretion to charge with a lesser offense or for the policeman's discretion when he brings the case before the prosecutors. Also, of course, a lesser offense can be found by the court, even if he has been charged with the offense that would bring about the mandatory jail sentence.

So it has been felt by the committee that really very little is served, and in many cases, specific cases, mischief is done by mandatory jail sentences. However, I recognize that many members of the legislature, and some of them I am sure here, probably feel that in the case of a crime committed with a firearm there should be a mandatory sentence. We will be addressing that when we get to House Amendment "F", if anyone wishes to raise a question about it. It is the feeling of I think all of us on the committee that even if it is the will, or maybe especially

if it is the will of the legislature, that there would be a mandatory sentence in the case of crimes committed with a firearm, that it would give all the more strength to that statement, which of course is a statement on the part of the legislature of how abhorrent we feel crimes committed with a weapon are, if would give all the more strength to that statement if we were to have that be the only crime, the only case in the whole criminal code, where there is a mandatory sentence. What I am suggesting is that if any members of the legislature feel that it is important for us to make that statement in an especially strong and clear voice, it is probably all the more important or equally important that this amendment, House Amendment "D", be indefinitely postponed.

Second offenses of burglary, although they are obviously offensive to the legislature, I can assure those of you who don't have the occasion to be in courts of law that, whatever the actions have been in the past, that our judges are now being very strict in these cases and are in many cases handing out the maximum punishment, as I think that they should in many cases dealing with these people that repeatedly commit crimes against property and crimes against the dwelling place. It is the feeling of the committee that to single out burglary would really raise all sorts of questions about why other crimes haven't been singled out. It is not, in the feeling of the committee, as clearly distinguishable as crimes committed with a firearm in terms of the need to have a separate and special statement.

So it is then for the purpose of trying to remain true to the greatest extent to the idea that we don't think mandatory sentences are good, and also so that if we have any mandatory sentences in the code that it will be that special case of crimes committed with a firearm, that I ask the Senate to indefinitely postponed House Amendment "D", which is filed under 1170.

The PRESIDENT: Is it now the pleasure of the Senate to indefinitely postpone House Amendment "D"?

The Chair recognizes the Senator from Somerset, Senator Corson.

Mr. CORSON: Mr. President and Members of the Senate: I would just like to pose a question through the Chair before I vote on this particular item. I realize that last session we imposed mandatory sentences for persons convicted of night hunting, and I am wondering if the revision of our criminal laws has addressed this matter and possibly done away with the mandatory sentencing for night hunting. I would appreciate it if someone from the Judiciary Committee could answer that for me.

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

Mr. MERRILL: Mr. President and Members of the Senate: I stand ready to be corrected by my fellow members of the Judiciary Committee, but I think that the Committee on Judiciary approached the subject of night hunting as being a Fish and Game matter, with trepidation appropriate, considering the debate which took place here earlier, and left it to the will of that committee to make that change if they wanted it.

The PRESIDENT: Is the Senate ready for the question? Is it now the pleasure of the Senate to indefinitely postpone House Amendment "D"?

The motion prevailed.

House Amendment "E" was Read.

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

Senate Amendment "A", Filing No. S-509, to House Amendment "E" was Read and Adopted and House Amendment "E", as Amended by Senate Amendment "A" There to, was Adopted.

House Amendment "F" was Read.

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

Mr. MERRILL: Mr. President and Members of the Senate: I intend to make no motion in regards to this amendment but only to point out that this is the amendment that I alluded to earlier which does create a mandatory jail sentence in the case of those people who commit crimes with a firearm.

It might also be noted for those who have a special concern with this matter that all through the code there are special increased penalties available to the judges in cases where people commit a crime with a firearm. I think, if memory serves me correctly, for example, burglary committed without a firearm is a "C" offense in many cases; it would be an "A" offense if committed with a firearm, more than doubling the penalty available to the judge.

So I point out to the Senate, so they may work their will, that this does create the mandatory sentence in the case of a firearm and that this matter is also considered in other parts that presently are in the code.

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

Mr. COLLINS: Mr. President, I join with my colleague, Senator Merrill, in some concern over this amendment. I am not going to try to defeat it, but I have to say for the record that mandatory sentences do not accomplish the purposes for which they are intended. The idea that there will be certainty of punishment because you put it in the statute is illusory. Time and again we see mandatory sentences circumvented by prosecutors and judges because they feel that the sentence is not appropriate for the situation.

I think it is unfortunate that we come to a time when we try to make sentencing a computerized matter. If any one of us stops to think, if we were in trouble and convicted in a court and about to be sentenced, would it be better for us to be sentenced by someone with human intelligence, or would it be better that we simply be sentenced by a mandatory numerical process? This is the problem that this kind of amendment creates. And what my friends who are very much concerned over law enforcement do not realize is that this kind of provision leads to fewer convictions. They seem to forget that before you have a sentence you must have a conviction, and the difficulty that prosecutors have in obtaining convictions when a mandatory sentence lies at the end of the road can be well documented. If you talk with experienced prosecutors, they can tell you about these problems.

At the same time that our well meaning friends were putting mandatory sentences on our statute books in the other body, they were stripping away from the police certain powers of enforcement that the Criminal Code Revision Commission had written into the bill and which the Judiciary Committee had approved. Again, I think it is most unfortunate that sometimes we get the cart before the horse in our zeal to accomplish a very worthy end. I didn't feel that I could let this occasion pass without expressing a little bit of my frustration in this respect.

The PRESIDENT: The Chair will interrupt debate to ask the Sergeant-at-Arms to escort the Senator from Cumberland, Senator Berry, to the rostrum where he has graciously offered to serve as President pro tem for the remainder of the afternoon.

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

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

Mr. CIANCHETTE: Mr. President and Members of the Senate: I appreciate the remarks of the Senator from Knox, Senator Collins, but I just can't understand what conditions might exist that a prosecutor or a judge

could not want to sentence a person who has been caught using a firearm in order to commit a crime against another person. I think that is a pretty serious situation and I think it ought to be dealt with as such. And I think we should remember that the people we are passing these laws for are the criminals, and not the lawyers and judges. Perhaps if we had a law on the books that said if you are caught committing a crime with a firearm you are going to jail, period, if the law was there, I think that might serve as a deterrent to stop the crime before it happens. That is the context that I am considering when I support this amendment, and I do believe that it might be an ounce of prevention. And if we can stop a crime from happening by having a law on the books that can be publicized, and people know that in this state if they are caught committing a crime with the use of a firearm that they are going to go to jail for a good long time, then I strongly support the amendment.

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

Mr. GRAHAM: Mr. President and Members of the Senate: I want to strongly support the good Senator from Knox, Senator Collins. I believe these severe mandatory sentences are counterproductive. As he has said, we will get fewer convictions, not more, by this law. It seems to me we should leave it to the judge's discretion in some cases; otherwise, we are simply going to get fewer convictions. Anyone who has sat on a jury for drunken driving, for instance, knows how loath juries are to convict, knowing that the penalty may be severe on the individual's life. I therefore move the indefinite postponement of House Amendment "F".

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I think that the issues have been very well stated by the Senator from Knox, Senator Collins, as to the general theory of mandatory sentences, and I agree with him and I agree with Senator Graham. But in answer to the Senator from Somerset, Senator Cianchette, it seems to me that when he says I can't think of any reason why someone shouldn't go to jail in the commission of a criminal act with a firearm, first of all, under the existing code if someone does commit a criminal act with a dangerous weapon, any dangerous weapon, it need not be a firearm, then he is automatically, if he is convicted, sentenced for the class of a crime which is higher than the one which he committed. So, as the Senator from Cumberland, Senator Merrill, has pointed out, the code already addresses the seriousness of committing a crime with a firearm or a dangerous weapon.

But the second area which it seems to me might be the area where the court might want some discretion is in the area of restitution. It seems to me that you may have many situations where someone has been burglarized, where a firearm might have been used, where money or property of great value has been stolen, of great value to the victim of the crime, and it seems to me that oftentimes in the criminal justice system we overlook the victim of the crime. We only think of punishing the criminal, and I think we don't look often enough at what we are going to do for the victim. That is why it has been important to elevate restitution as an element to be considered by the court in sentencing and as an element to be considered by the court in granting probation. And it seems to me that there are and will be cases where the court would think it more just for everyone concerned if they were allowed to, for example, give a shock sentence or a sentence which would be less time than this amendment provides for, and then suspend the remainder of that

sentence and require the convicted person to restore the victim his property or her property. It seems to me that it makes a lot more sense for the victim if the court has the discretion in certain instances to do that. And under this amendment, I am afraid they are not going to have that discretion because there is a minimum sentence to be served in prison and there is not much restitution that can be made from prison.

We have added to the probation section of the law, even with restitution, an element that says a court can consider not only the convicted person's resources but the convicted person's ability to earn in compensating the victim. And it seems to me that it makes a lot more sense in many cases for the court to require that convicted person to restore to the victim the value of what has been taken from the victim.

Therefore, I think that is just one reason why mandatory sentence provisions are counterproductive, and will become much more counterproductive under the Maine Criminal Code which puts great emphasis on restitution. We are finally I think seeing restitution as a tool which should be used a lot more than it is or has been, and are providing for it in the criminal code on the one hand, and yet on the other hand we are taking away the court's discretion and the court's ability to use the restitution. We had a bill before this legislature in the regular session, a bill which provided for the state to reimburse the victims of crime, and it cost a lot of money, taxpayers' money. It seems to me it would make a lot more sense to have the convicted person restore that victim's property than it does the taxpayers of the State of Maine.

I hope you would go along with the motion of the good Senator from Cumberland, Senator Graham, and postpone this amendment. Thank you, Mr. President.

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

Mr. CORSON: Mr. President, I must concur wholeheartedly with the comments of my distinguished colleague from Somerset, Senator Cianchette. I believe that this bill will help considerably in preventing crimes committed with a firearm. Now, I would like to make it clear that I am wholeheartedly in support of restitution, but I think it is pretty darn difficult to talk about restitution when someone has lost their life because a burglar was carrying a firearm and panicked and shot somebody. And I know, speaking personally, I would much rather be ripped off than shot.

I really can't understand the arguments about difficulty of conviction. Now, I admit I am not an attorney and possibly there is a lot in this area that I am incapable of understanding. I always understood though that an individual was convicted of a crime when it had been proven beyond any reasonable doubt that the individual was guilty of that crime. I think it is somewhat specious to discuss the attitude of juries when an individual is accused of driving under the influence. I could well see where a member of a jury might adopt the attitude of there but for the grace of God go I; recalling some time when they had left a party under the influence or possibly they had had a bit more to drink than they should have, and knew full well they shouldn't have been driving and they managed to elude capture on that incident, and therefore they might be sympathetic with an individual who under similar circumstances found themselves brought into a court. But I find it difficult to conceive of a member of a jury saying, while facing a man accused of armed robbery or shooting someone while burglarizing a home, to look at that individual and say there but for the grace of God go I. I don't buy that at all.

I hope that if we can enact this amendment into law that an individual who is perhaps going

out to engage in a little burglary, larceny, might say, well, I have got a chance for a suspended sentence if I get caught, but if I carry a firearm I am going to jail, so maybe I will just leave the pistol home this time, and maybe we can prevent someone from being shot. I would oppose the motion to indefinitely postpone and I would request that the vote be taken by the "Yeas" and "Nays".

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

The Chair recognizes the Senator from Somerset, Senator Cianchette.

Mr. CIANCHETTE: Mr President, I would just like to make it clear that I am not debating the issue as has been related by the Senator from Androscoggin, Senator Clifford. I think I am seeing this in a different light than the Senator from Androscoggin, Senator Clifford. His whole debate has been arranged around after the crime has been committed, and I certainly would have to concur and concede that his views of that are probably correct. I don't disagree with him. I accept his views and I accept his arguments in that case. I believe the debate here is do we want to pass some legislation that might have some preventive aspects to it, to prevent the crime from happening in the first place, and I see this as a tool to do that. I would like very much to see this bill passed and I hope you will oppose the motion.

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

Mr. MERRILL: Mr. President and Members of the Senate: I am in a difficult position, in a sense, because I am in such wholehearted agreement with the purposes of the good Senator from Somerset, Senator Cianchette. I just am, frankly, beyond the philosophic problem I have with mandatory sentences, I am not greatly concerned about what happens with this amendment. But I just would indicate to the whole Senate that the world, I am afraid, isn't quite as simple as it has been suggested here.

The fact of the matter is that the criminals know the law better than the Senator from Somerset, Senator Cianchette, and they know that the decision is still left with the judge and the prosecutor and the jury in all the discretion that is left to them on whether to charge with a lesser offense, whether to find a lesser offense. Criminals know this. And I am afraid that the non-criminals aren't as familiar with the law in this regard as Senator Cianchette, and they probably won't know the action we have taken here anyway, so when the non-criminal runs into his house to get his gun to chase off a person who he thinks is a trespasser and creates an act of criminal threatening with a firearm, and thus would go to jail, he probably won't be aware of the action we have taken here. The net result is, I guess, that the intention is such a good one that I find it hard to oppose, but the act, I am afraid, is much more symbolic than realistic.

The PRESIDENT pro tem: Is the Senate ready for the question? The question before the Senate is the motion by the Senator from Cumberland, Senator Graham, that House Amendment "F" be indefinitely postponed. A roll call has been requested. In order for the Chair to order a roll call, it must be the affirmative desire of one-fifth of all the members present. Will all those in favor of a roll call please rise and remain standing until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The question before the Senate is the motion by the Senator from Cumberland, Senator Graham, that the Senate indefinitely postpone House Amendment "F". If you are in favor of indefinite postponement you will vote "Yea"; if you are opposed you will vote "No".

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Berry, E., Berry, R., Clifford, Collins, Conley, Cummings, Curtis, Cyr, Danton, Graham, Johnston, Marcotte, McNally, Merrill, Reeves, Roberts, Thomas, Trotzky.

NAYS: Senators Carbonneau, Cianchette, Corson, Graffam, Greeley, Hichens, Jackson, Katz, O'Leary, Pray, Speers, Wyman.

ABSENT: Senators Gahagan, Huber.

A roll call was had. 18 Senators having voted in the affirmative, and 12 Senators having voted in the negative, with two Senators being absent, the motion prevailed.

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

Sent down for concurrence.

The President pro tem laid before the Senate the following tabled and Specially Assigned matter:

Bill, An Act to Establish a Potato Lien Law. (S. P. 775) (L. D. 2328)

Tabled — April 1, 1976 by Senator Speers of Kennebec

Pending — Enactment

(In the House — Enacted)

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

The President pro tem laid before the Senate the following tabled and Specially Assigned matter:

Bill "An Act to Clarify the Retirement Statutes." (H. P. 1650) (L. D. 2027)

Tabled — earlier in today's session by Senator Speers of Kennebec

Pending — Adoption of House Amendment "B" to Committee Amendment "A"

On motion by Mr. Speers of Kennebec, tabled and Tomorrow Assigned, pending Adoption of House Amendment "B" to Committee Amendment "A".

#### Papers From The House

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

##### House Paper

Bill, "An Act to Establish Uniform Standards for the Measurement of Wood." (H. P. 2277)

Comes from the House, referred to the Committee on Agriculture and Ordered Printed.

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

#### Joint Resolution STATE OF MAINE

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

In Memoriam Having Learned of the Death of State Trooper Detective GEORGE FREDERICK WATSON of Caribou who served fourteen years with the Maine State Police

The Senate and House of Representatives of the State of Maine do hereby extend their sincere heartfelt condolences and sympathy to the bereaved family and friends of the deceased; and further

While duly assembled in session at the State Capitol in Augusta under the Constitution and Laws of the State of Maine, do herein direct that this official expression of sorrow be forthwith sent to the family of the deceased on behalf of the Legislature and the people of the State of Maine. (H. P. 2275)

Comes from the House, Read and Adopted. Which was Read and Adopted in concurrence.

(Off Record Remarks)

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