

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Eighth  
Legislature***

OF THE

STATE OF MAINE

**1978**

**Second Regular Session**

January 4, 1978 — April 6, 1978

INDEX

**Senate Confirmation Session**

June 14, 1978

INDEX

**First Special Session**

September 6, 1978 — September 15, 1978

INDEX

**Second Special Session**

October 18, 1978

INDEX

**Third Special Session**

December 6, 1978

INDEX

APPENDIX

## SENATE

February 7, 1978

Senate called to Order by the President.

Prayer by Reverend Douglas H. Robbins of Augusta.

Reverend ROBBINS: O mighty God in whom we live and move and have our being, we invoke Thy presents and Thy wisdom among us as we resume this Legislative Session in which right and wise decisions must be made. Help us to rise above the petty demands and irritations which so often cloud our vision. May we do cheerfully and confidently the work which lies before us, and which shall be for the greater benefit of all of our fellow men. Open our minds we pray to the council of eternal wisdom and breath into our hearts the peace and goodwill which will cause our labors to be well done in spite of any differences we may have. Deliver us from fear and fever, deliver us from shifting purposes and wondering desires. May Thy continued blessing be upon our nation and upon our State and may we continue to fulfill our duties as good citizens and as members of Thy eternal family of mankind. May not only the words we speak; but the meditation of our hearts also be acceptable in they sight thour who are our strength and our redeemer. Amen.

Reading of the Journal of Yesterday.

(Off Record Remarks)

Papers from the House  
Non-concurrent Matter

Bill, "An Act to Increase the Amount which Qualifies a Financial Institution for Exemption from Insurance of Deposits on Accounts." (Emergency) (H. P. 1862) (L. D. 1920)

In the House, February 3, 1978 Passed to be Enacted.

In the Senate, February 3, 1978, Failed of Enactment.

Comes from the House, Passed to be Engrossed as amended by House Amendment "A" (H-1013) in non-concurrence.

On Motion of Mr. Speers of Kennebec, Tabled for One Legislative Day pending consideration.

Bill, "An Act to Repeal Mandatory Eye Tests for the Renewal of Driver's Licenses for all Persons over 40." (Emergency) (H. P. 1884) (L. D. 1938)

In the Senate, February 3, 1978 Passed to be Engrossed as amended by Senate Amendment "B" (S-451) in non-concurrence.

Comes from the House, Passed to be Engrossed as amended by Senate Amendment "B" as amended by House Amendment "A" (H-1014) thereto, in non-concurrence

On Motion of Mr. Speers of Kennebec, Tabled for One Legislative Day pending consideration.

## Joint Orders

Expression of Legislative Sentiment recognizing that:

Mrs. Sherri Baisin of Sanford has been chosen outstanding young woman of the year by the Sanford-Springvale Jaycees, (H. P. 2080)

the Western Homestead, which was built in Madison in 1817 and which is famed for its excellent Federal style domestic architecture, has been entered on the National Register of Historic Places, (H. P. 2081)

Donald R. Turner, Jr. of Sanford has been chosen outstanding young man of 1977 by the Sanford-Springvale Jaycees, (H. P. 2082)

Come from the House, Read and Passed.

Which was Read and Passed, in concurrence.

## Joint Resolution

Whereas, the Legislature has learned with deep regret the death of Walter Reeves, one of the oldest and dearest citizens of Windham, (H. P. 2078)

Comes from the House, Read and Adopted.

Which was Read and Adopted, in concurrence,

## House Paper

Bills requiring reference to Committee were acted upon in concurrence.

## Orders

An Expression of Legislative Sentiment recognizing that:

May O. Hadlock, a beloved resident of Parsonsfield, has attained the 100th anniversary of her birth, (S. P. 693)

is presented by Senator Lovell of York, Co-sponsored by Representative Carroll of Limerick.

Which was Read and Passed.  
Sent down for concurrence.

## Committee Reports

## House

## Leave to Withdraw

The Committee on Education on, RESOLVE, to provide for a Regional Special Education Compact in Southern Penobscot County. (Emergency) (H. P. 1865) (L. D. 2046)

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 Legal Affairs on, RESOLVE, to Appeal the Decision of the State Claims Board Regarding Property Loss Suffered by Henry E. Ripley of Augusta Because of Theft at the Augusta Mental Health Institute. (H. P. 2011) (L. D. 2086).

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-1009)

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

Which Report was Read and Accepted in concurrence, and the Resolve Read Once. Committee Amendment "A" was Read and Adopted in concurrence, and the Resolve, as amended, Tomorrow Assigned for Second Reading.

The Committee on Education on, Bill, "An Act to Preventive Discipline in the Schools." (H. P. 1866) (L. D. 1916)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-1001)

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-1010) thereto.

Which Report was Read and Accepted. The Bill Read Once. Committee Amendment "A" Read.

House Amendment "A" to Committee Amendment "A", Read and Adopted. Committee Amendment "A", as amended, Adopted. The Bill, as amended, Tomorrow Assigned for Second Reading.

## Senate

Mr. Pray for the Committee on Labor on, Bill, "An Act to Exempt the Industrial Accident Commission From the Administrative Procedure Act." (S. P. 644) (L. D. 2011)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-457).

Which Report was Read and 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 Read-

ing reported the following:

## House

Bill, "An Act to Include "Mobile Home" in the Definition of "Homestead" for the Purposes of the Homestead Exemption from Certain Attachments." (H. P. 1951) (L. D. 2030)

Which was Read a Second Time and Passed To Be Engrossed, in concurrence.

Bill, "An Act to Provide for the Payment of Costs for Relocation Utility Facilities in an Urban Renewal Area." (Emergency) (H. P. 2072) (L. D. 2131)

Which was Read a Second Time.

On Motion of Mrs. Cummings of Penobscot, Tabled for One Legislative Day pending Passage to be Engrossed.

## Senate

Bill, "An Act to the Application of the State Valuation to State and Town Cost-Sharing Activities, Including Highway Bridges and Winter Maintenance." (Emergency) (S. P. 657) (L. D. 2034)

Which was Read a Second Time.

On Motion of Mr. Speers of Kennebec, Tabled until Thursday next, pending Passage to be Engrossed.

## Senate - As Amended

Bill, "An Act to Facilitate the Making of Decrees by the Industrial Accident Commission." (S. P. 643) (L. D. 2010)

Which were Read a Second Time.

On Motion of Mr. Speers of Kennebec, Tabled until Monday next, pending Passed to be Engrossed.

Bill, "An Act to Require Compensation of State Agencies in Compiling Labor and Industrial Statistics for the Bureau of Labor." (S. P. 642) (L. D. 2009)

Which was Read a Second Time and Passed to be Engrossed, as amended.

Sent down for concurrence.

## Enactors

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

An Act to Permit Self-contained Breath Testing Equipment. (H. P. 2054) (L. D. 2113)

An Act Relating to Incinerator Particulate Emission Standard For Wood Waste Teepee Burners. (H. P. 2053) (L. D. 2112)

An Act to Reorganize Certain Boards and Commissions and to Affiliate Certain Boards and Commissions with Departments of Maine State Government. (H. P. 1907) (L. D. 1968)

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

## Emergency

An Act Relating to Certificate of Need. (S. P. 652) (L. D. 2013)

On Motion of Mr. Huber of Cumberland, placed on the Special Appropriations Table.

## Orders of the Day

The President laid before the Senate:

House Reports — from the Committee on Education — Bill, "An Act to Provide for Alternative Election Procedures for School Budgets on a Local Basis." (H. P. 1909) (L. D. 1970) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass, as Amended by Committee Amendment "A" (H-999)

Tabled — February 6, 1978 by Senator Speers of Kennebec

Pending — Acceptance of Either Report

On Motion of Mr. Speers of Kennebec, Retabled for One Legislative Day.

The President laid before the Senate:

House Report — from the Committee on Agriculture — Bill, "An Act to Permit Persons other than Arborists to Take Down Trees by Topping or Sections." (Emergency) (H. P. 1858) (L. D. 1925) Ought to Pass as Amended by

Committee Amendment "A" (H-981)

Tabled — February 6, 1978 by Senator Speers of Kennebec

Pending — Acceptance of Report

On Motion of Mr. Speers of Kennebec, Re-tabled until later in Today's Session.

The President laid before the Senate:

House Reports — from the Committee on Marine Resources — Bill, "An Act to Clarify and Limit the Authority of Municipalities to Establish Shellfish Conservation Programs and to License and Regulate the Taking of Shellfish." (H. P. 715) (L. D. 851) Majority Report — Ought to Pass as Amended by Committee Amendment "C" (H-989); Minority Report — Ought Not to Pass

Tabled — February 6, 1978 by Senator Speers of Kennebec

Pending — Acceptance of Either Report.

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

Mr. HEWES: Mr. President and Members of the Senate, I move the acceptance of the Majority Ought to Pass Report and would speak to my Motion.

The PRESIDENT: The Senator from Cumberland, Senator Hewes, now moves that the Senate accept the majority Ought to Pass as amended Report of the Committee.

The Senator has the floor.

Mr. HEWES: Mr. President and Members of the Senate: this LD which is actually House Amendment H 989, because that completely strikes out everything including the title and then there is a new title and the wording of the Bill itself. This resulted from a Bill that was sponsored by a Member of the other Body last year. He represents a town in Lincoln County and the clam flats in Lincoln County were apparently being dug relatively dry so are not productive and Maine does have presently, a law which is Title 12 Section 4251 and 4252 which does allow a municipality to have a conservation plan for the digging of clams and if they have the town has such an ordinance, then they may exclude non-residence from digging clams as long as they do have a certified conservation commission, and that present law excludes clam diggers from towns where the flats are no longer productive from digging in the towns where the clams are abundant. I feel that the present law has worked well, as proven by the fact that the towns have conservation commission that apparently have productive clam flats and some of those who do not have such an ordinance do not have productive clam flats.

So last year when the Bill came in here for final debate, final enactment I believe, we were successful in defeating it on the grounds that the other Bill which we had just opened up all clams flats around the state to clam diggers from all over the State because the clam flats and the clams are state property rather than the property of a particular municipality. We would have defeated the Bill last year. In the ensuing months, the Committee on Marine Resources has debated this issue at great length, various propositions have come up including the fact that perhaps 25 percent of the clam diggers would have to be, could be non-residence, or would have to be non-residence and ultimately, a compromise was reached which I felt and feel is a good compromise, as I say it is set forth in H 989. This is a true conservation Bill. It would encourage the conservation of clams, the seeding of clams. There would have to be a survey in each town; and before there could be a Conservation Commission, the Commission would have to be approved by the Commissioner of the Department of Marine Resources and there is an automatic three year renewal, I should say automatic three year expiration on the local ordinances so that every three years the towns would have to automatically reconsider whether or not they do want to adopt a new ordinance or not and it seem to

me that this is a good Bill and I would move the acceptance of the Ought to Pass Report.

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

Mr. McNALLY: Mr. President, I move that this Bill and all its accompanying papers be indefinitely postponed. And I would like to speak to my Motion.

The PRESIDENT: The Senator from Hancock, Senator McNally, now moves that this Bill and all its accompanying papers be indefinitely postponed.

The Senator has the floor

Mr. McNALLY: Mr. President, since I come from the County of Hancock and represent most of it, I can assure you folks that never in the 12-years that I have been here in this Legislature have I received more telephone calls from my constituents, and I never received one that was for it, and the reasons they give seem to be very valid, and I remember from going to the hearing, the only hearing I think has been held on it this Session, where I set between the members of Beals Island, and Jonesboro, Jonesport with some Milbridge people up front that it seemed to be that the two counties that produce the most clams themselves are not particularly agree with each other. For instance: Beals Island has no conservation program. They have no ordinance against digging clams there and Jonesboro does and once in a while they speak up and dig where they shouldn't and somebody gets arrested and so forth. But there was one thing that seemed to me that they all agreed on there was even a vote taken and almost unanimously, everybody voted for it, and that was for a Two-Inch Clam Law. And that is the only good I can see out of the whole thing. If you read this final, not the final but the pink part, the "C" part, you will see the bad part of it as far as a new Amendment which nobody ever heard of until it was just printed and put here on our desk, and I will read you a letter from the First Selectman of the Town of Jonesport which pick out some of the worst faults of it. And it says, "Dear Senator"

We ask you to oppose the enactment of a bill L. D. 851, "An Act to Clarify and Limit the Authority of Municipalities to Establish Shellfish Conservation Programs and to License and Regulate the Taking of Shellfish", coming before the Maine Senate very shortly.

L. D. 851 is aimed directly at Washington County as this County produces forty percent of the total clams and Hancock County is next with twenty-three percent. As you conclude from these percentages of the yield, our towns have performed quite well under the present law as compared with the rest of the coastal area. Without conservation measures developed at the municipal level, Washington County will be like the rest of the coastal Counties — denuded of soft shell clams. This bill, L. D. 851, carries severe penalties; if it is complied with, a massive outlay of local monies (\$20,000 plus per town) to carry out a conservation program as detailed in L. D. 851, and a large expenditure (\$100,000 at least) by the Department of Marine Resources (see Section 11, Line 1 — "The Commissioner shall provide technical assistance to municipalities — —" for it's part as mandated in this bill. These costs estimates are developed from our experiences while doing CETA funded survey programs in six areas this past year. Or even worse, if towns do not enact a local ordinance there is no provision for any conservation measures whatsoever, and there we go open digging with no restrictions — just like the rest of the coastal area — without local ordinances — part time commercial digging at a poverty level. Of course, there will probably be enough for the tourists to play with when they visit our area to enjoy strolling on the beaches and investigation the tide pools, which idea apparently initiated this piece of legislation.

This bill, L. D. 851, is entirely unnecessary.

The present law contains the necessary provisions to maintain a healthy resource. Most of us are aware of this and we ask you to defeat L. D. 851."

And I will tell you my own thoughts on it. I think the present Bill that they now have today will cause more ordinances to be developed by different towns to conserve what clams we have left in our clam flats then it this Bill is passed.

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

Mr. MORRELL: Mr. President and Members of the Senate: The seeds of revolution against the Uniform Property Tax first began the sprout along the Maine Coast, and I predicted if we acted favorable on this Bill, that we may well have another revolution on our hands. So I rise this morning in real support of the Senator from Hancock, and I hope that we will indefinitely postpone this Bill and all its accompanying papers.

The matter of conservation can be dealt with in other ways that are much less disruptive. The Senator from Hancock has referred to the Two-Inch Clam Law which could go a long way in solving at least part of the problem and whenever you have a large segment and apparently almost a unanimous segment of the fishing industry in agreement that the Two-Inch Clam Law would go a long way, I think we ought to grab that opportunity and so I hope that this morning we will vote to indefinitely postpone this Bill and everything that is connected with it.

The PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Mr. CHAPMAN: Mr. President and Ladies and Gentlemen of the Senate, there is one thing for certain about this Bill. That is that it does not seem to have a great ground swallow support; and it has caused a great deal of consternation among many people.

The Committee has worked seemingly endlessly on this particular issue. Both last year and this year. As the good Senator from Cumberland, Senator Hewes has bought out. In the course of our work we had two public hearings, extremely well attended. One held in the Civic Center. And the positions were strongly divided. Almost evenly. The Committee has attempted within itself to achieve unanimity and impossibility that has become increasingly obvious. The Committee has developed several different approaches to this issue and the present report before you is a result of a much compromise. And I certainly must commend the tenacity and perseverance of the Committee in their work. They sincerely tried to address this issue.

Prior to this particular report, we had what appeared to be a divided report. Two different reports that might come out of Committee. One of which I personally felt had a fairly wide measure of support. But the present report is the one before you. It is a compromise between those two reports and that is the one we are acting upon. The thrust of the Bill is to emphasize conservation of the shell fish resource and it also restricts the residency limitations to those instances where they are necessary to forest conservation. With some reluctance on some of the provisions, I voted this Bill out of Committee Ought to Pass. Now after having circulated the final draft to the municipalities in my area, and have talked with the selectman and the Clam Commissioners and clam diggers in my area, I find that there is virtually no enthusiasm for this particular report. They tell me that they see this as another state infringement on local control. That they are merely being forced to locally finance and implement a state mandated program. Further under this Bill, if the municipalities fail to carry out the ordinances and compliances with the program provisions, then the Commissioner of Marine Resources must declare them revoked in which in turn would create a stage of no ordinance of

conservation program possibly in some municipalities and this course would not be a healthy situation as far as conservation is concerned.

If there is not any real support for this Bill amongst our constituency, then I personally question the advisability of proceeding further at this time. I just do not see any real support for this in my area and, therefore, I feel that I must oppose the passage of this bill in its present form and I urge the Senate to support the Motion of the Senator from Hancock, Senator McNally.

The PRESIDENT: Is the Senate ready for the question?

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

Mr. O'LEARY: Mr. President, I would request a Roll Call on this motion, and I would like to commend the Senator from Cumberland, Senator Hewes on his remarks and I think that there sections of the law that he referred to are what we, who are inland, in the State of Maine, sincerely reject. The clams in the flats of the State of Maine belong to all the people of the State of Maine.

Now, I have no quarrel with the municipalities enacting ordinances that would help preserve and conserve the natural resource of the area, and I can understand the dilemma of those who dig clams for a living, but like the deer of the State of Maine, they are a natural resource that belongs to everyone in the State of Maine. I do not object as a citizen from inland in the State of Maine from being restricted as to how many I can take. My opportunities to go down on the coast are very limited now. If I were restricted to a peck or half a peck would make no difference to me and I think this Bill restricts me to a peck and I do not think that that is asking very much. But I would remind you in the western part of the State of Maine, over the past years, we have had the largest deer kills ever recorded anywhere in the State and that is a natural resource that belongs to all of the people of the State of Maine, and I would remind the good Senator from Hancock, Senator McNally, harvest is a history with deer that he takes and makes a down shift and that is in my county. Now if we are going to restrict the citizens of the State of Maine from digging clams, then perhaps we ought to enact in our fish and game laws similar statutes as long as it pertains to our clam flats. I think that is a fair assumption. I wonder if the coastal communities would accept this? We could establish conservation districts in our municipalities and we could restrict the hunting only to those who are residence, but we are not asking for this. All we ask is that everyone in the State of Maine be given an opportunity to harvest fuel for their family when they do have the opportunity to visit on the coast.

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

Mr. FARLEY: Mr. President and Members of the Senate: If I read the paper correctly this morning, this is probably a cut and dry issue. However I represent coastal communities to my home town of Biddeford and the town of Kennebunk and Kennebunkport. They have the right, Kennebunk and Kennebunkport, to dig clams. We in Biddeford have closed flats and have had them for years.

Biddeford and Saco have invested millions of dollars in the sewerage treatment plant. We claim to have the cleanest river in the Northeast, the Saco River. Still the clam flats remain closed. While over in Kennebunk and Kennebunkport they dig them at will. I do not know if there is a real conservation program there and I do not think that it is fair. I think that maybe the Department of Marine Resources ought to reevaluate these flats so all us in the State of Maine can dig clams. It is a natural resource that belongs to all of us. And certainly ought to all be entitled, not just who hold a commercial license.

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

Mr. COLLINS: Mr. President, I find in my own district that there is usual division of opinion in respect to this measure.

The road of a conservationist is not an easy one and it seems to me that this Bill lacks local control in any real sense and I question whether it is merely a sound conservation measure. However, I am hopeful that out of this can still come some measure of conservation of the resource because in the long range this is very important to the State of Maine whether you look at it from the point of view of the digger making a living or the person who simply wants to go and dig a peck for his own use. And I would hope that perhaps this matter might be kept alive because the Two-Inch Law it seems to me, is indeed a valuable law and one that ought to be restored.

The PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Mr. CHAPMAN: Mr. President and Members of the Senate: The Marine Resources Committee is responding to the Two-Inch Law question. At the public hearing held on this particular Bill this year, there appeared to be in the testimony a number of people in reference to the desire to have a State wide Two-Inch Clam law reinstated. After the issue was brought up several times, I asked for a show of hands of those present who supported such a law be reinstated. Virtually every hand of those present rose from the Members of the public there to testify. This was an issue that came out of the addressing the particular Bill at hand which was not incorporated in the Bill at that time. Because of this interest, the Marine Resources Committee is considering the particular issue in another Bill it has before it now, the substance revision of the Marine Resources Law, and it is my expectation that that will, personally, hopefully be incorporated in that Bill and will be before this Body a little later to be enacted upon.

I just want to say that I sympathize sincerely with the issues raised by the Senator from Oxford, Senator O'Leary, and the Senator from York, Senator Farley. They are valid issues and by no means in my stand today am I trying to avoid those issues. I think they need to be addressed and unfortunately I think perhaps they will have to be addressed again in the future.

Some municipal ordinances that are in existence right now are excellent ordinances. They are fair. They are good conservation measures, and they are not restrictive to residency and they are well down. Other ordinances are not. There is a fair amount of freedom under the present statute. The attempt here was to try to tighten it up in the course of trying to do that, we had a great deal of difficulty in arriving at a consensus that would achieve that. So I feel that the Bill before us in its present form is not one that would acceptively, in my view, address the issues. Not that they should not be addressed, but the present Bill is not one I find will do that satisfactorily.

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

Mr. O'LEARY: Mr. President, will you have the Secretary read the Committee Report please.

Committee Reports Read.

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

Mr. O'LEARY: Mr. President, it amazes me to see a Committee Report such as this. It was unanimous on part of those in the Senate here that this bill should pass and then the action being taken. It would seem that it had ample debate in the House and those Minorities reported ought not to pass there and here to pass. I think we would be negligent here in what we determine to be conservation if, we turned around now and killed this Bill.

I appreciate those communities that Senator

Chapman refers to that have enacted ordinances to allow non-residence an opportunity to dig clams. I do not appreciate those who are restricted to residence of their town only, but I think the word here is that we are all concerned with is conservation and this is what it is all about. The municipalities have the right to restrict those who are non-resident or who are even resident under this Bill when their clams are being depleted. And I think this Bill goes a long way in order to conserve the clams. Let the Two-Inch Claim Law is good, but it will not solve the problems of the present law. I think that this is a good Bill.

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 to be counted.

Obviously more than one-fifth having arisen, a Roll Call is ordered.

(At Ease)

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

Mr. TROTZKY: Mr. President and Members of the Senate: The concern here I understand is limiting the number of diggers on the clam flats for conserving the resource. Now the statement in the Amendment on page three states that, "Commercial digging licenses might be limited to municipal residences only if the municipality can show that the restriction is necessary to conserve the municipal shellfish resource and prevent under the provision based on a current assessment of stock." In other words, the Bill puts the burden on the municipality to scientifically, I believe to show that the stocks are being depleted. And I would question or ask someone, or pose a question through the Chair to somebody possibly on the Marine Resources Committee how some of these small towns in Washington County, which there are many, and Hancock County are going to be able to prove scientifically that the resources are being depleted if they are.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky has posed a question through the Chair.

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Mr. CHAPMAN: Mr. President and Members of the Senate: this provision obviously requires the towns to get some extra expertise if they do not have it themselves. One of the provisions of the Bill would stipulate more assistance from the Department of Marine Resources in helping municipalities in their ordinances in one aspect of which would be to help them to determine the condition of their flats. There is an Amendment which was put on this Bill in the House under H-993 which further authorizes the Commissioner of Marine Resources to extend from the shellfish fund revenues and licenses up to \$50,000 for three additional area biologist to assist the municipalities in carrying out of this act. In addition there are private firms, people capable of doing this sort of work. This does give rise to one of the concerns that has been expressed to me that in the process of getting this kind of assistance, it may cost the municipalities more. Certainly it could cost the State more in seeing that this is carried out in the future. Not that these should not be necessary, but they do appear to be some of the objections at the present time. But if you are going to carry out a conservation program with any real accuracy or degree, it does seem, to the Committee at least, that it would be necessary to know what the condition of the resource in flats. So this requirement is in the present Bill, and it is in the opinions of some of the towns will put somewhat of a hardship on them. The Bill was defi-

nately emphasized conservation. And I feel that this need still has to be addressed. As I said before, I find the Bill in its present form is one, I find difficult to support at the present time.

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

Mr. HEWES: Mr. President, when the vote is taken, I respectfully request to be allowed to pair my vote with the Senator from Androscoggin, Senator Snowe. If she were here she would vote in favor of the pending motion to indefinitely postpone. I would vote against that motion. I just spoke with the Senator.

The PRESIDENT: The Senator from Cumberland, Senator Hewes, now requests leave of the Senate to pair his vote with the Senator from Androscoggin, Senator Snowe, who if she were here would vote yea and the Senator from Cumberland, Senator Hewes, would vote nay. Is it the pleasure of the Senate to grant this leave? It is a vote.

The pending question before the Senate is the Motion by the Senator from Hancock, Senator McNally, that this bill L. D. 851 and all its accompanying papers be indefinitely postponed.

A yes vote will be in favor of indefinite postponement.

A nay vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEAS: Chapman, Collins, D.; Cummings, Hichens, Huber, Lovell, McNally, Morrell, Pierce, Pray, Redmond, Speers, Trotzky, Usher, Wyman

NAYS: Carpenter, Collins, S.; Conley, Danton, Farley, Martin, Minkowsky, O'Leary

ABSENT: Curtis, Greeley, Jackson, Katz, Levine, Mangan, Merrill

15 Senators having voted in the affirmative and 8 Senators in the negative, with 7 Senators being absent, and 2 Senators pairing their votes, the Motion to indefinitely postpone does prevail.

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

Mr. MORRELL: Mr. President having voted on the prevailing side, I now ask for reconsideration and hope that the Senate will vote against me.

The PRESIDENT: The Senator from Cumberland, Senator Morrell now moves that the Senate reconsider its action whereby it indefinitely postponed L. D. 851.

Will all those Senators in favor of reconsideration please say yes.

Will all those opposed please say no.

A Viva Voce Vote being had,

the Motion to reconsider does not prevail.

Sent down for concurrence.

The President laid before the Senate:

House Report — from the Committee on Agriculture — Bill, "An Act to Permit Persons other than Arborists to Take Down Trees by Topping or Sections. (Emergency) (H. P. 1858) (L. D. 1925) Ought to Pass as Amended by Committee Amendment "A" (H-981)

Tabled — earlier in the day by Senator Speers of Kennebec

Pending — acceptance of the Report

On Motion of Mr. Conley of Cumberland, Retabled for One Legislative Day.

On Motion of Mr. Huber of Cumberland, Adjourned until 11:00 in the morning Wednesday, February 8, 1978.