

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

January 3, 1979 to May 4, 1979

STATE OF MAINE
One Hundred and Ninth Legislature
JOURNAL OF THE SENATE

February 6, 1979

Senate called to Order by the President.

Prayer by The Honorable Andrew J. Redmond of Madison.

Senator REDMOND: Dear God, give us wisdom to find solutions to the problems facing us, making full usage of our resources, human and material, for the betterment of the people of this great state. Give us the courage to implement these solutions. Amen.

Reading of the Journal of yesterday.

Papers from the House
Non-concurrent Matter

Bill "An Act Concerning the Crime of Prostitution." (H. P. 65) (L. D. 73)

In the House, January 25, Majority "Ought to Pass" Report, Read and Accepted and the Bill, Passed to be Engrossed.

In the Senate, February 1, Minority "Ought Not to Pass" Report, Read and Accepted in non-concurrence.

Comes from the House, that Body having Insisted.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate Recede and Concur with the House.

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

Senator COLLINS: Mr. President, I would request a Division and urge the Senate to vote against the Motion.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion to Recede and Concur, please rise in their places to be counted.

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

Senator SILVERMAN: I would like a Roll Call.

The PRESIDENT: A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call, it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

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

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

Senator SILVERMAN: Mr. President, Ladies and Gentlemen of the Senate: I would ask you today to vote yes on the receding motion, Recede and Concur. I do so because I think we should consider after the laughter is over. I think what we are considering today is a most serious bill with many consequences to our way of life in the State of Maine.

It is strange but the Senator who prodded me into speaking is the Senator who is voting against this bill.

My reason for rising is this: We do not have at this time a major problem with prostitution in Maine, but we could have in the future. We are now seeing it in several cities, but we are not seeing it as an acceptable way of life for most Maine people.

We, in Maine, have been raised with some foundation. That sex means more than just being a commodity for money. That it might mean a relationship, between two people, that has some sincerity, some value, some working together, and so hope for a family life and children. These values, these are foundations. These are the values I was raised with in Maine before the permissive era came into our State. Their values, I don't think, should be destroyed in Maine. If there are those in Maine who need prostitution, they can go South; they can go North; it's available.

You have to also think of sons and daughters. Are we raising our daughters to "put out" their

pleasures for a dollar bill? Or are we raising our daughters to want to have a family life, the decency, there is in a relationship between two people who are sincere in wanting something better in life?

In the opposition to this, we have heard what's only a problem in one area of Maine. The other areas don't have that problem? If this be the case, then how is this law saying that those who are using the prostitute, are not responsible as those who are the prostitutes? For if this is not a problem anywhere else, this law would prevent it from being a problem, anywhere else.

I hope you will vote yes to Recede and Concur. I hope you will recognize that values just don't come and go, they are earned. Those who lose them, pay a dear price, their children pay a dear price, also. I hope our laws in Maine will be for promotion of a family unit, not of a \$20.00 bill in a motel room after an affair. Thank you.

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

Senator LOVELL: Mr. President, and Ladies and Gentlemen of the Senate: We voted on this bill the other day and won by four votes. Now, actually prostitution in the State of Maine, isn't any problem. I don't see that it's going to be any problem in the near future, if it is a problem, which it was in Portland, where they had some 70 prostitutes; but they went back to Massachusetts. They've only got 20 in there now, and they'll probably be leaving shortly too. If Portland will pass an ordinance against prostitution, and give them a good-size fine, for the men as well as the women, why then you won't get much prostitution in Portland.

All the Senators I've talked with from Lewiston, Bangor, Bath, Brunswick, everyone I've talked with there's no prostitution there whatsoever. There's none in Sanford. So why do we make this a state-wide affair, when this is a Portland bill?

Portland has a very good city council, and all they have got to do is pass an ordinance. They can do what they want to and pass an ordinance. But why make this a State measure? I don't think it's fair; I think it will hurt our tourist business, and our convention business without any question.

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

Senator NAJARIAN: Mr. President, I don't believe the City of Portland can establish criminal penalties. If that were the case, every town in the State would have different fines for different things. Just because we have a problem in Portland that doesn't exist anywhere else in the State, there's no reason for this Legislature not to address the problem.

You know the last time we debated this bill it was brought out by both Senator Collins and Senator Trafton. Well, he brought up Chicago, I believe, and she brought up Wisconsin. Senator Trafton indicated how in Wisconsin when you began to fine the male customer, how prostitution diminished.

I came across an article in *Newsweek* about Oakland California. In Oakland, the police in 1974 arrested 663 prostitutes and only 21 customers. That same year, the California Courts ruled on equal enforcement. The following year, the picked up 651 females and 451 males. According to an Oakland Police Sergeant, the new tactics have worked. When the men who patronize prostitutes are arrested, the Sergeant reports, all they want to do is make bail, get out of jail, and start making up a story to tell mama.

Due to the fact that the *Oakland Tribune* regularly prints the names of all the men picked up as customers, the Sergeant says, "the recidivism among their arrested customers is nearly non-existent."

Now it seems to me, if you have a law in the books and it's not doing what you want it to do what its intended to do, either to discourage or

eliminate a certain practice that society considers undesirable and that law isn't working, then it seems to me, you should be receptive to making some changes in either getting rid of it or try something else.

What's being proposed here today, we have evidence from different places in the United States, where it has contributed to the decrease of prostitution. I see no reason why we shouldn't at least give it a try here in the State of Maine. Thank you.

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

Senator PRAY: Mr. President, and Members of the Senate: It was just a term ago that I was on the other side of this issue, voting the other way. I would hope that since then, I've seen the light. I would hope many of you have seen the light since you voted last week on this. I would like to respond to just a few of the comments that I have heard made at this time, and the last time we debated this bill.

First of all in reference to the fact that this bill is a Portland Bill, an area bill of special interest, I would point that as of February 2nd of last Friday, we voted on the bill to give the City of Portland an exemption on school buses, which was a Portland Bill. The Senator from York, Senator Lovell, voted along with the Portland delegation to give that exemption under the law, a special area in the concern of one municipality.

I have with interest read a number of editorial over our action and I would point out that there was one in the *Kennebec Journal*, the paper which covers the Kennebec County and many of your Legislators from outside Kennebec County receive it while we're down here. It kind of ridicules the Legislature, particularly the Senate; something I don't like. The title of the editorial was "done in by giggles", and it talked about the lack of sincerity with which we addressed the issue.

I would think that many of us would like to believe that prostitution does not exist in our own district for one reason or another. I would like to believe that it doesn't in my region, but I'm not proud of the reason that I think it doesn't. I think that the Senator from Washington, Senator Silverman, kind of addressed it that it's the decline of morals in our country and in our State as well. I think that young people, people of all ages, morality, the acceptance of sexual freedom today, has done a lot of harm to the old-age business of prostitution.

But I think that we have got to address it on a more serious matter, and not be reactionary after the problem occurs as a crisis statewide. We pass a lot of legislation to prevent something from happening; and what we're doing in this situation, the bill was written is to address a problem which many agree at this time is not of severity. We'd like to take a step in the right direction and treat all individuals equally. Those buying as well as those selling. I think it's only question of equity within the Maine Law. I would hope that we could Recede and Concur with the House, and move this Legislation along for the benefit of the people in the State of Maine.

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

Senator CONLEY: Mr. President, and Members of the Senate: It's so frequently we have heard in these Chambers that this Bill is a "Portland Bill." I would only state that, yes, Portland has the problem, and we've been dealing with the problem for several years. But I would ask each and everyone of you who represent your districts, who represents your constituency, if the problem was in your community would you not be up here trying to do something to alleviate it? I have a great deal of concern about an equity under the law. I don't think that the "Scales of Justice" ought to be perfectly balanced in this particular case. That's all we're asking. If your community has a problem that is starting to become, not only

of concern to the fathers of the City of Portland and its residents, but many of the people in the outlying, surrounding communities are concerned as well.

I would only suggest, at least, to give some sort of balance on this statute and see if we can't at least help to reduce the problems that are now going on. I feel that if this law is implicated or implemented that it may bring a turn of events, that we won't be confronted with what is going on in Boston and other large communities.

We're a small State. We're a small state and we take pride in our State, and I take pride in my community, as I'm sure that each and everyone of you do in yours. I would only ask the Senate go along with the other body today and Recede and Concur. At least let us see what happens once this bill becomes law.

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

Senator HICHENS: Mr. President, and Members of the Senate: I arise to set the records straight this morning. In last Friday's papers, there was a Associated Press Report in which it states that Senator Hichens' statement, "that he wouldn't know a prostitute if he saw one," drew laughter from his colleagues in the Senate."

That didn't bother me very much, but when my wife read it she said, "Boy, Honey, that gives the impression that you are in favor of prostitution." I said, "No, I don't think so." But I went home and my eldest son came to the house Sunday and he said, "Hey, Dad, what's going on." He said that he was at a meeting in New Hampshire over the week-end and a lady came up to him and said, "Is your father, Senator Hichens in Maine?" He said, "Yes." She said, "I hear that he's sponsoring a bill to legalize prostitution in the State of Maine. It was on the radio."

I got that corrected, and then my younger son came in the house later on. He said, "Dad, what's going on." He said, "I heard your voice on the radio saying that you wouldn't know a prostitute if you saw one, and so you're in favor of prostitution." Well, he added the last few lines on his own, because that's not the way it came over the radio.

I want the record clear this morning, that I'm not in favor of prostitution in the State of Maine. But I do feel that this Bill should be passed, that if one person is guilty the other one should be also.

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

Senator COLLINS: Mr. President. One of the risks that we all have if we participate in a public office, is that the media may treat us in the brief style that they must follow, may give an impression that's not entirely accurate.

I think that everyone here recognizes the evils of prostitution. I don't think that any of us are trying to promote it. We'd all like to see it dry up and go away.

But my position has been and remains, we need to look at it in the context of the entire Criminal Justice System. What is going to work best for the entire system.

I'm not going to repeat what I've said before in this Body, but I would submit to the Senators from Cumberland, who perhaps, have the most immediate concern, that if they simply drive this problem underground they are not going to solve it. There have been attempts to drive it underground before. It will go underground but this doesn't end the problem. If you feel that this will end the problem, then you certainly should vote as the Senator from Cumberland has requested.

But I think the experience is to the contrary. I think that this problem we have to work on and work on in our communities, rather than think we can just pass a law in Augusta and have it go away. I submit that that's where we need to do the work, in our own communities. I hope that you will consider that this is a se-

rious problem. We sometimes treat serious problems with a little levity, because it helps us bare the problem and sometimes to get different insights to it. I hope that we'll keep in mind that overall goal of a good Criminal Justice System and the deployment of our resources to the best resolve, and vote no on the pending motion.

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

Senator PRAY: Mr. President and Members of the Senate: I rise a second time to address the comments made by the Senator from Knox, Senator Collins. Also with great interest of reading his statement of February 1st, as to the concerns of good Criminal Justice System. "A good Criminal Justice System deals fairly with those who are breaking the law."

I do not believe that this piece of Legislation is an attempt to abolish the crime. It is not an attempt, we are not here today, the sponsors of this Legislation, are not saying that this bill will do away with it. All they are saying is that they want to fairly address the situation and those individuals who are committing the crime, and treat them equally under the eyes of a good Criminal Justice System, that is what is being asked.

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

Senator FARLEY: Mr. President and Members of the Senate: In a few short months, hopefully, you will have on our Appropriations Table several bills dealing with some of the social problems. Obviously at that point, this solution is dealt with in dollars.

We have a chance here this morning to attack the problem before such an LD gets on that table. Because if we decide not to take any action on this, certainly the social problems arising in several areas that I do not think that I have to mention, will be before you in the near future. I would hope that we would go along with the bill this morning, and pass it on to the next reading.

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

Senator LOVELL: Mr. President. I might say that prostitution in Portland has dropped to 20 according to Lieutenant Dewy Martin. It was 70 in the last year and has dropped to 20.

Now 20, in a population of a city the size of Portland, is not very much. All they have got to do is send out 5 female police ladies. Half a dozen police-ladies and they can catch the men in that manner.

Now prostitution is legal in just about every country in the world. But I do not know of any state in the United States that has passed this bill to make the man equally as guilty, publish his name, put it in the paper and fine him as much as the lady. The lady is the one who is getting the money, it is not the man.

So consequently, in my opinion, this Bill should not pass, and I hope that you will vote no.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Conley, that the Senate Recede and Concur with the House.

A Yes vote will be in favor of the Motion to Recede and Concur.

A Nay vote will be opposed.

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Clark, Conley, Farley, Hichens, Martin, Minkowsky, Najarian, Pray, Shute, Silverman, Sutton, Trafton, Usher

NAY — Ault, Chapman, Collins, Cote, Devoe, Emerson, Gill, Huber, Katz, Lovell, McBreairey, O'Leary, Perkins, Pierce, Redmond, Teague, Trotzky

ABSENT — Danton

14 Senators having voted in the affirmative and 17 Senators in the negative, with 1 Senator

being absent, the Motion to Recede and Concur does not prevail.

The PRESIDENT: Is it now the pleasure of the Senate to Adhere?

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: I move that we Insist and ask for a Committee of Conference.

The PRESIDENT: The Senator from Androscoggin, Senator Trafton, now moves that the Senate Insist and asks for a Committee of Conference.

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: I would request a Division and urge the Senate to vote No.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion to Insist and Ask in a Committee of Conference with the House, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

13 Senators having voted in the affirmative and 17 Senators in the negative, the Motion to Insist and Ask in a Committee of Conference, does not prevail.

Is it now the pleasure of the Senate to Adhere?

It is a vote.

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

Senator KATZ: Mr. President, having voted on the prevailing side, I now move reconsideration.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that the Senate reconsider its action whereby it voted to Adhere.

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.

House Papers

Bill, "An Act Pertaining to Ordinary Death Benefits under the Maine State Retirement System." (H. P. 229) (L. D. 276)

Bill "An Act Relating to Adjustment of Retirement Allowance for Retirees of the State Police." (H. P. 230) (L. D. 277)

Come from the House, referred to the Committee on Aging, Retirement and Veterans and Ordered Printed.

Which were referred to the Committee on Aging, Retirement and Veterans, and Ordered Printed, in concurrence.

Bill "An Act Appropriating Funds for the Maine Commission for Women." (H. P. 232) (L. D. 276)

Bill "An Act Appropriating Funds to Move the Stanton Museum and its Collection from Bates College to the Maine State Museum." (H. P. 233) (L. D. 279)

Come from the House, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Which were referred to the Committee on Appropriations and Financial Affairs and Ordered Printed, in concurrence.

Bill "An Act Concerning the Profession of Public Accountancy." (H. P. 234) (L. D. 280)

Bill "An Act to Revise the Podiatric Practice Act." (H. P. 235) (L. D. 281)

Come from the House, referred to the Committee on Business Legislation and Ordered Printed.

Which were referred to the Committee on Business Legislation and Ordered Printed, in concurrence.

Bill, "An Act to Abolish Compulsory Education." (H. P. 236) (L. D. 282)

Bill "An Act to Prohibit a School District

from Offering Driver Education Courses for a Fee to a Student when a Duly Licensed Commercial School is Available." (H. P. 237) (L. D. 283)

Bill "An Act to Amend the Statute Relating to Alternative Procedures for Adoption of School Budgets." (H. P. 238) (L. D. 284)

Come from the House, referred to the Committee on Education and Ordered Printed.

Which were referred to the Committee on Education and Ordered Printed, in concurrence.

Bill "An Act to Prohibit Regulations of Solar Heating and Cooling Equipment by the Oil Burner Men's Licensing Board." (H. P. 240) (L. D. 285)

Bill "An Act Relating to Recording of Land Subdivision Plans." (H. P. 241) (L. D. 286)

Come from the House, referred to the Committee on Energy and Natural Resources and Ordered Printed.

Which were referred to the Committee on Energy and Natural Resources and Ordered Printed, in concurrence.

Bill, "An Act Relating to Revisions of the Adoption Law." (H. P. 242) (L. D. 287)

Bill, "An Act Concerning Liability of Landowners to Recreational Users of their Land." (H. P. 243) (L. D. 288)

Bill, "An Act Concerning Implied Warranty and Covenant of Habitability." (H. P. 244) (L. D. 289)

Come from the House, referred to the Committee on Judiciary and Ordered Printed.

Which were referred to the Committee on Judiciary and Ordered Printed, in concurrence.

Bill, "An Act Relating to the Establishment of a Benefit Year in the Unemployment Compensation Program." (H. P. 245) (L. D. 290)

Bill, "An Act Relating to Negotiations Involving State Employees under the Labor Laws." (H. P. 246) (L. D. 291)

Bill, "An Act Relating to Penalty Provisions under the Maine Labor Laws." (H. P. 248) (L. D. 292)

Bill, "An Act to Clarify the Definition of Employer Under the Workers' Compensation Act." (H. P. 248) (L. D. 293)

Bill, "An Act to Increase the Statutory Penalty for Violating the Statute Concerning Advertising or Soliciting Worker During a Strike." (H. P. 249) (L. D. 294)

Come from the House, referred to the Committee on Labor and Ordered Printed.

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

Bill, "An Act Relating to Constables and Special Police Officers." (H. P. 250) (L. D. 295)

Bill, "An Act to Permit Performing Arts Centers to Serve Alcoholic Beverages." (H. P. 252) (L. D. 297)

Bill, "An Act to Allow the Trustees of the Portland Ministry at Large to Seek Changes in its Articles of Incorporation." (Emergency) (H. P. 253) (L. D. 298)

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

Which were referred to the Committee on Legal Affairs and Ordered Printed, in concurrence.

Bill, "An Act to Allow 17 Year Olds to Donate Blood without Parental Consent." (H. P. 251) (L. D. 296)

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

On Motion by Senator Katz of Kennebec, referred to the Committee on Health and Institutional Services and Ordered Printed, in non-concurrence.

Bill, "An Act to Provide for a Reduced Fee for Lobster and Crab Fishing Licenses for Residents 60 Years of Age or Over." (H. P. 254) (L.

D. 299)

Comes from the House, referred to the Committee on Marine Resources and Ordered Printed, in concurrence.

Which were referred to the Committee on Marine Resources and Ordered Printed, in non-concurrence.

Bill, "An Act Relating to Motor Carrier Rates Subject to the Jurisdiction of the Public Utilities Commission." (H. P. 255) (L. D. 300)

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

Which was referred to the Committee on Public Utilities and Ordered Printed, in concurrence.

Bill, "An Act to Provide for an Advisory Referendum on Reducing the Number of Members of the Maine House of Representatives from 151 to 99 Members." (H. P. 256) (L. D. 301)

Bill, "An Act to Conform State of Maine Recruitment, Examination and Employment Practices with Provisions of the Maine Human Rights Act and Related State and Federal Legislation." (H. P. 258) (L. D. 303)

Come from the House, referred to the Committee on State Government and Ordered Printed.

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

Bill, "An Act to Provide the Bureau of Consumer Protection with a Toll-free Telephone Number." (H. P. 257) (L. D. 302)

Comes from the House referred to the Committee on State Government and Ordered Printed.

On Motion by Senator Katz of Kennebec, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed, in non-concurrence.

Sent down for concurrence.

Bill, "An Act to Increase Certain Motor Vehicle Excise Taxes." (H. P. 259) (L. D. 304)

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

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

Communications

February 1, 1979

Committee on Energy and Natural Resources

The Honorable Joseph Sewall

State House

Augusta, Maine 04333

Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 109th Maine Legislature, the Joint Standing Committee on Energy and Natural Resources has had under consideration the nomination of Henry E. Warren to the Commissioner of the Department of Environmental Protection.

After public hearing and discussion on the nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 109th Maine Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee Clerk called the roll with the following result:

YEAS:

Senators — 3

Representatives — 8

NAYS:

Senators — 0

Representatives — 0

ABSENT: 2

Rep. Frank Peltier

Rep. Laurence L. Kiesman

Eleven members of the Committee having voted in the affirmative and 0- in the negative, it was the vote of the Committee that the nomination of Henry E. Warren to the position of Commissioner of the Department of Environmental Protection be confirmed.

Sincerely
JAMES MCBREARTY
Senate Chairman
WILLIAM BLODGETT
House Chairman

Which was Read and Ordered Placed on file.

The PRESIDENT: The Joint Standing Committee on Energy and Natural Resources has recommended that the nomination of Henry E. Warren be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Energy and Natural Resources be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 109th Legislature, the vote will be taken by the yeas and nays.

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

Senator O'LEARY: Mr. President, and Ladies and Gentlemen of the Senate: I would like to say a few words in support of the Standing Committee on Energy and Natural Resources recommendation that Henry E. Warren be confirmed to the position as of Commissioner of Environmental Protection.

I was impressed at the public hearing by the testimony presented by the Chairman of the Paper Industry Information Office, Air and Water Quality Committee, the Associated General Contractors of Maine, the Natural Resources Council and the Coastal Resources Action Committee.

The representatives of these groups unanimously praised the manner in which Commissioner Warren, has conducted the State's business. He was described as a person who was willing to listen, conducts himself in a business like manner and is at all times fair.

I was not surprised by these statements. I have not always agreed with Mr. Warren, but I too have found him to be fair and forthright in his dealings and extremely sensitive to the views and the feelings of the people who have come in contact with him.

I voted for him Thursday in Committee and I urge you to confirm this nomination unanimously today. Thank you.

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

Senator PRAY: Mr. President and Members of the Senate: As a member of this body in the last legislative session when the name of Henry Warren came up for commissioner, I was one of two members in this chamber who voted against that confirmation because of certain reservations which I had.

Since that time I have been involved on a number of issues very closely with the Commissioner; and all of those reservations, I can say at this time have been removed. I find the man always available, very willing to cooperate with the general public, never forgetting the fact that he is employed by the people of the State of Maine. I think that this section of government is a section of government which has come under fire by different areas of interest, and as the Senator from Oxford, Senator O'Leary said, the representative from that other area, the industrial side of the State of Maine, was very supportive. They found that Commissioner Warren has served all interests to a great ability. I would hope that, this year, the vote would be unanimous in confirming his confirmation.

The PRESIDENT: Is the Senate is ready for the question?

A vote of yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — None

NAY — Ault, Carpenter, Chapman, Clark, Collins, Conley, Cote, Devoe, Emerson, Hi-

Huber, Katz, Lovell, Martin, McBrearty, Najarian, O'Leary, Perkins, Pierce, Pray, Redmond, Shute, Silverman, Sutton, Teague, Trafton, Trotzky, Usher, Sewall.

ABSENT — Danton, Farley, Gill, Minkowsky.

No Senators having voted in the affirmative, and 29 Senators in the negative, with 4 Senators being absent and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Henry E. Warren is confirmed.

SENATE CHAMBER
President's Office

February 2, 1979

Honorable David R. Ault
Honorable Judy Kany
Chairmen, State Government Committee
State House
Augusta, Maine 04333

Please be advised that Governor Joseph E. Brennan is nominating Jadine Raynes O'Brien of Portland to serve as Commissioner of Personnel.

Pursuant to MRSA, Title 5, Section 631, this appointment is subject to review by the Joint Standing Committee on State Government and confirmation by the Senate.

Sincerely,
JOSEPH SEWALL
President of the Senate
JOHN MARTIN
Speaker of the House
(S. P. 161)

Which was Read and referred to the Committee on State Government.

Sent down for concurrence.

DIRECTOR OF LEGISLATIVE RESEARCH
January 1, 1979

To the Honorable May M. Ross
Secretary of the Senate
109th Legislature of the
State of Maine

In accordance with Title 3, section 164, subsection 10, following is the report of the Director of Legislative Research.

In the fall of 1978, each member-elect and the Executive and Judicial departments of State Government were informed of the services available at this office and urged to submit legislation as early as possible in order to expedite the legislative process. As a result, despite the uncertainties of December convening and the transition to a new Governor, new committee structures and rules, many cooperated in this effort. However, since three-fourths of the bill requests were received in the three-day period prior to cloture, greater support in this effort may be necessary in the future to reduce this logjam. On the other hand, the early processing of the Probate Code and the Inland Fisheries and Wildlife laws contributed greatly to the advance of the session. These efforts were appreciated and, hopefully, other major revisions of this nature can be handled in a similar manner.

Other matters of interest to the Legislature are as follows.

1. Republication of statutes. In carrying out its constitutional duty as the law-making branch of State Government, the Legislature compiles and publishes for public use the Maine Revised Statutes Annotated.

To date, 6 of the original 18 volumes enacted in 1964 have been updated and republished. In the absence of a periodic bulk revision of all volumes, the need to update and republish as single volumes continues if the set is to remain current and convenient to users. Therefore, it is recommended that funds be included in the Director's budget as recommended by the Legislative Council to republish the following volumes over the next biennium:

Volume	Title	Time of Republication	Number of New Volumes
8	14-15	December, 1979	2

9	16-17	February, 1980	2
3	8-10	November, 1980	2
12	22-23	January, 1981	2

2. Sets of the statutes. As a cost-saving measure, the Legislature discontinued supplying Unannotated Statutes (green sets) after January 3, 1970. This left the Annotated Statutes (red sets) as the only available state statutes. These sets are available on a sale or loan basis through the State Law Library. In order to meet current and projected needs for these sets, it is recommended that funds be included in the Director's budget to purchase 85 additional sets.

3. Errors bill. The purpose of the Errors bill is often misunderstood as it is not only used to correct legislative errors and oversight, but also, of equal importance, provides a vehicle by which needed revision work can be accomplished. The combined effect of both efforts have led to the development of two fairly large bills. The first bill, which was prefilled this year, contains all statutory and revision problems discovered since the last Legislature. The second bill will contain similar problems which are currently developing to be an effective corrective tool, the second bill should be the last act of the session as a later act is construed to control over earlier enactments.

4. Title and section program. Also, in connection with the Errors bill, Legislators should be ever-mindful of the computerized title and section program which has the capability of identifying most conflicts between bills even in their earliest stages. This program provides the Legislature with three levels of defense against costly errors. These three levels are

First, printouts are provided to each joint standing committee, listing all potential conflicts which can be researched and corrected while the legislation is in committee; Second, the Committee on Bills in the Second Reading in each House is in a position to offer timely floor amendments to correct those conflicts which escape or develop after the committee stage; and Third, the Errors bill provides the last opportunity to correct conflicts which have eluded all other levels of correction. It should be remembered that this program is totally dependent upon the cooperation of all parties involved and is of no benefit unless clearance of all listed items is required before further action is allowed.

5. Index of private and special laws. For the convenience of those working with private and special laws, this office is in the process of compiling an updated index of all private and special laws. If funds are included in the Director's budget for the purpose, the index will be published and made available in 1979.

6. Enactment of statutory volumes as positive law. As the legislature moves further away from the revision of 1964, which was enacted as positive law. At present, republished volumes are only prima facie evidence of the law which places the burden on users to research all enactments subsequent to the 1964 revision to properly prepare for court.

7. Technology improvements. For your information, this office is currently involved in analyzing and planning for a computerized bill drafting and statutory retrieval system. This development is generally favored. However, it will depend, to a large extent, upon the availability of funds and timing for transition. When these systems are combined, considerable efficiency will be gained for the legislative process. Using this system, documents or statutes can be retrieved from storage, additions or changes in text made, and the modified document returned to computer storage. Retyping of the complete document is therefore eliminated, thus efficiency is greatly increased. You will be hearing more on this development as information becomes available.

It should be noted in conclusion, that in order to continued to promote uniformity of proce-

dures, to avoid confusion and to permit an orderly transition from revision to revision, it is important that all legislation be checked for form by the Office of the Director before presentation to the Legislature. Also, it is suggested that all criticisms of the 1964 revision and of the current methods of updating be forwarded to the director to aid in planning future republications or revisions.

Favorable consideration by the members of the 109th Legislature in respect to these recommendations is earnestly requested.

Respectfully,
DAVID S. SILSBY
Director
(S. P. 162)

Which was Read and Ordered Placed on file.
Sent down for concurrence.

Senate Papers

Senator Devoe of Penobscot presented, Bill, "An Act to Clarify the Application of Military Service Credits to Retirement Benefits for Policemen, Firemen, Local District Employees, Sheriffs and Full-time Deputy Sheriffs." (S. P. 147)

Which was referred to the Committee on Aging, Retirement, and Veterans and Ordered Printed.

Sent down for concurrence.

Senator Usher of Cumberland, Cosponsor: Senator Pray of Penobscot presented, Bill, "An Act to Amend Dog License Fees and Control." (S. P. 156)

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

Sent down for concurrence.

Senator Perkins of Hancock, Cosponsor: Senator Chapman of Sagadahoc presented, Bill, "An Act Providing for Archaeological Investigation of the "Viking Coin" Historical Site." (Emergency) (S. P. 139)

Senator Collins of Knox, Cosponsor: Senator Conley of Cumberland presented, Bill, "An Act to Increase the Compensation for Legislators, Justices, Judges and District Attorneys." (Emergency) (S. P. 145)

Senator Pierce of Kennebec, Cosponsor: Senator Minkowsky of Androscoggin presented, Bill, "An Act Relating to State-municipal Revenue Sharing." (SP 157)

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

Sent down for concurrence.

Senator O'Leary of Oxford presented, Bill, "An Act Relating to Plumbing Inspectors." (S. P. 153)

The same Senator presented, Bill, "An Act Relating to Certification of Plumbing Inspectors." (S. P. 154)

Reference to the Committee on Business Legislation is suggested.

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

Senator O'LEARY: I would move that these Bills be referred to the Committee on Energy and Natural Resources.

On Motion by Senator Katz of Kennebec, tabled until later in today's session, pending the motion by Senator O'Leary of Oxford.

Senator Perkins of Hancock presented, Bill, "An Act Exempting Certain Non-consumer, Industrial Uses of Aerosols from the Statute Prohibiting Certain Aerosols." (S. P. 160)

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

Sent down for concurrence.

Senator Gill of Cumberland presented, Bill, "An Act Concerning Telecommunications for the Deaf." (Emergency) (S. P. 152)

Which was referred to the Committee on

Health and Institutional Services and Ordered Printed.

Sent down for concurrence.

Senator Najarian of Cumberland presented, Bill, "An Act to Amend the Effective Date of Abolishing the Mental Health and Mental Retardation Improvement Fund." (Emergency) (S. P. 158)

Reference to the Committee on Health and Institutional Services is suggested.

On Motion by Senator Huber of Cumberland, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Sent down for concurrence.

Senator O'Leary of Oxford presented, Bill, "An Act to Amend the Safe Drinking Water Act." (S. P. 155)

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

Sent down for concurrence.

Senator Gill of Cumberland presented, Bill, "An Act to Amend the Workers' Compensation Statute to Provide for Podiatric Services." (S. P. 151)

Senator Devoe of Penobscot presented, Bill, "An Act Relating to Self Employee Workers' Compensation Insurance Coverage." (S. P. 148)

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

Sent down for concurrence.

Senator Hichens of York presented, Bill, "An Act to Regulate the Number of Lobster Traps in Certain Waters of Kittery." (S. P. 159)

Which was referred to the Committee on Marine Resources and Ordered Printed.

Sent down for concurrence.

Senator Devoe of Penobscot presented, Bill, "An Act to Provide Service Charges on the Tax Exempt Property of the State of Maine." (S. P. 149)

The same Senator presented, Bill, "An Act Relating to Compensation of the Secretary of the Public Utilities Commission." (S. P. 146)

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

Sent down for concurrence.

Senator Devoe of Penobscot presented, Bill, "An Act Concerning Gas Tax Refunds." (S. P. 150)

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

Sent down for concurrence.

Order

On motion by Senator Katz of Kennebec, ORDERED, that the Secretary of the Senate shall purchase such services, supplies and equipment as may be needed to carry on the business of the Senate.

Which was Read and Passed.

Committee Reports

House

The following Ought Not to Pass report shall be placed in the Legislative Files without further action pursuant to Rule 22 of the Joint Rules.

Bill, "An Act to Appropriate \$25,000 to Lay Advocates at Work, Inc." (H. P. 29) (L. D. 46)

Leave to Withdraw

The Committee on Transportation on, Bill, "An Act Relating to Auxiliary Lights on Certain Law Enforcement Vehicles under the Motor Vehicle Law." (H. P. 80) (L. D. 88)

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.

Second Readers

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

House

Bill, "An Act to Increase the Limitation on Contracts which the County Commissioners may Enter into for Purchases and Constructions without Competitive Bidding." (H. P. 56) (L. D. 65)

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

Senate

Bill, "An Act to Permit Privately-owned Snowplows to Keep Warning Lights on when on the Highways as well as Private Property." (S. P. 52) (L. D. 77)

Which was Read a Second Time.

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

Senator PRAY: Mr. President, I present Senate Amendment to (L. D. 77), under Filing No. (S-6) and speak to the motion.

The PRESIDENT: The Senator from Penobscot, Senator Pray now offers Senate Amendment "A" (S-6) to (L. D. 77) and moves its adoption.

Senate Amendment "A" (S-6) Read.

The PRESIDENT: The Senator has the floor.

Senator PRAY: Mr. President and Members of the Senate: We addressed this issue last week in accepting the Ought to Pass Report. I spoke to you at that time of a problem. This Amendment, I would hope, would take care of the problem I talked about and just to refresh your memory and briefly explain to you what the Amendment does.

A situation was brought to me by a constituent. On a Town street in one of the towns in my district, an individual had met head-on with the edge of a plow blade, because at that time in the evening he was unable to see the blade protruding out onto his side of the street. What the Amendment would do would require an individual that is plowing that has a blade that protrudes out into the oncoming traffic side, in excess of 12 inches, to have a reflector. Thus, an individual in the evening coming along headlights would hit that reflector and they would know basically where the edge of that blade was, and could adjust their driving to it.

The PRESIDENT: The Chair recognizes the Senator from Aroostook Senator Martin.

Senator MARTIN: Mr. President Ladies and Gentlemen of the Senate: With all due respect to my good friend the Senator from Penobscot, Senator Pray, in which I think he means well with the Amendment.

However, anyone that has done any plowing, or knows anything about snow plows, will agree that there's no way humanly possible to attach a reflector on a plow without it falling off, after using it once or twice. I also have a problem with the Amendment and possibly with the bill in view of the fact that we don't have an enforcement clause. Therefore, Mr. President, I would request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: To respond to the Senator from Aroostook, Senator Martin. If anybody is familiar with plowing, they'd be aware that Fisher Plows presently put a post on their 8 1/2 foot plows. There is a post with a reflector presently on them.

I would also point out that under State Law, State Vehicles plowing on public ways have to have a light attached to the roof of the plow shining down upon that edge of the blade which protrudes out into oncoming traffic.

I thought that since these individuals are plowing driveways and private roads, my concern would be that while they are traveling from one driveway to another, as we debated last week in accepting the bill, that we would address that situation, where these blades

would protrude out into the oncoming traffic.

I didn't take the liberty or the time to call several automobile dealers and ask what the average width of a pickup truck was. The average width is 79.6 inches and the restrictions which we have on plow blades is 102 inches. You would see that most 8 1/2 foot plows, would not exceed the 12 inch limit, as long as the plow blades were on the vehicle set evenly, but I have seen situations where when they retrack the blade back it comes off to the side and protrudes an additional 3 to 4 or 5 inches out into oncoming traffic. The attempt of the Legislation or the Amendment of the Legislation is a safety factor and if there are problems with it, then I would rather address that problem than just to brush the issue aside.

The PRESIDENT: Is the Senate ready for the question.

The Chair recognizes the Senator from Kennebec, Senator Ault.

Senator AULT: Mr. President, I move Indefinite Postponement of the Amendment and ask for a Division, and would speak briefly.

The PRESIDENT: The Senator has the floor.

Senator AULT: I move Indefinite Postponement, because I sponsored this bill, to relieve the snowplow operators of a burden and not to put an added restriction on them.

I would question the Amendment from another point of view also. It seems to me that if anyone driving down the highway can't see one of these blades, and they're usually painted yellow, then he shouldn't be driving anyway.

Another point is, if Senator Pray's intention is to have these reflectors on the front of the blade so that when you're driving at night the reflector will be visible, I'd like to point out to him that if you're heading toward a vehicle with its headlights on the reflector isn't going to reflect anyway.

The PRESIDENT: The Senator from Kennebec, Senator Ault, has moved that Senate Amendment "A" be Indefinitely Postpone, and requests a Division.

Will all those Senators in favor of the Indefinite Postponement of Senate Amendment "A", please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

22 Senators have voted in the affirmative and 7 Senators in the negative, the Motion to Indefinitely Postpone does prevail.

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

Senator CONLEY: Mr. President, can I inquire through the Chair as to what the report was on this particular bill from Committee?

The PRESIDENT: The Secretary will Read the Report.

Which Reports were Read.

On Motion by Senator Emerson of Penobscot, tabled for 1 Legislative Day, Pending Passage to be Engrossed.

Orders of the Day

The President laid before the Senate, the first tabled and specially assigned matter.

Bill, "An Act to Remove the Sunset Provision on the Tort Claims Act." (S. P. 119) (L. D. 228)

Tabled—February 2, 1979 by Senator Katz of Kennebec

Pending—Consideration.

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

Senator KATZ: Mr. President, I move the Senate Adhere.

The PRESIDENT: The Senator from Kennebec, Senator Katz now moves the Senate adhere to its action whereby the bill was referred to the Committee on Judiciary.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President, and Members of the Senate: There has been a little confusion relevant to the assignment of this particular bill, since the word "Sunset Provi-

sion" falls into the title of this particular bill, whether it should go to Audit Program Review or Judiciary.

I've heard many different explanations as to why it should go to Judiciary over Audit and Program Review. I think basically at this particular point, I certainly would like to call upon the good Senator from Knox, Senator Collins, the Chairman of the Judiciary Committee, to inform the Senate fully exactly what his rational was that it should be referred to Judiciary over Audit Program Review.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky has posed a question through the Chair. The Senator from Knox, Senator Collins may answer if he so desires.

The Chair recognizes that Senator.

Senator COLLINS: Mr. President, Thank you for this invitation to describe this Bill, The "Tort Claims Act" was written by the Judiciary Committee, two years ago and enacted as an emergency measure, because the Courts had placed the State and Municipalities in a very difficult position with regards to Tort Liability.

We did such a rush job that at the time we said, well let's put in an expiration date, so that we will be forcing ourselves to look again at this legislation within two years, in order to see whether its working out as we hope it will. That provision did force us to review the Act. We reviewed, it last year, and we had a further report on it from the Attorney's General Department, within this past month, and the consensus of these studies was that there were no problems that would mean that we ought to abolish the Act. There may be some improvements here and there, but we certainly need the Act if cities and towns as well as the State, are to have some clear definition of what their liability is. That's the only reason that an expiration date was inserted.

We felt that the Judiciary Committee having worked on the Bill two years in a row, would be the Committee best equipped to understand what we should do with it. That would be our reason if anyone thinks otherwise, I certainly have no objection to making the same explanation before another Committee, but our Committee is the expert in this law.

The PRESIDENT: The Senator from Kennebec Senator Katz, has moved that The Senate Adhere. Is this the pleasure of the Senate?

The motion prevailed.

The PRESIDENT: The Senate laid before the Senate, the second tabled and today's assigned matter.

The Confirmation of Spencer Apollonio to the position of Commissioner of Marine Resources. (Committee on Marine Resources has recommended confirmation.)

Tabled — February 2, 1979 by Senator Pierce of Kennebec

Pending — Consideration

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

Senator KATZ: Mr. President, because the Executive Department is still in no position, to have access to its choice for Commissioner of Marine Resources, I suspect that the best thing for the Legislature to do is to defer any action on this appointment. My purpose for rising is to make it very clear to the Members of the Press, and the Public that in the process of deferring action on this nomination, there is in no way any implications other than the fact that the Commissioner designated is in no position yet to assume the job, but probably will be by the end of this month so I would hope somebody would table it unassigned.

On Motion by Senator Pierce of Kennebec, Retabled.

The Chair would direct the Senate's attention to:

Bill, "An Act Relating to Plumbing Inspectors. (SP 153)

Tabled earlier in today's session.

On Motion by Senator Katz of Kennebec, retabled for 1 Legislative Day.

The Chair would direct the Senate's attention to:

Bill, "An Act Relating to Certification of Plumbing Inspectors. (SP 154)

Tabled earlier in today's session.

On Motion by Senator Katz of Kennebec, retabled for 1 Legislative Day.

On Motion by Senator Katz of Kennebec, the Senate voted to reconsider its action of earlier in today's session whereby it referred:

Bill, "An Act to Provide Service Charges on the Tax Exempt Property of the State of Maine (SP-149) to the Committee on State Government.

On Motion by Senator Katz of Kennebec, referred to the Committee on Taxation and Ordered Printed.

Sent down for concurrence.

On Motion by Senator Pierce of Kennebec, Adjourned until 10 o'clock tomorrow morning.