

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

**OF THE**

***One Hundred and Fifth  
Legislature***

**OF THE**

**STATE OF MAINE**

**Volume III**

**June 16, 1971 to June 24, 1971**

**Index**

**1st Special Session**

**January 24, 1972 to March 10, 1972**

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**KENNEBEC JOURNAL  
AUGUSTA, MAINE**

**SENATE**

Thursday, March 9, 1972

Senate called to order by the President.

Prayer by the Honorable Catherine Carswell of Portland.

Reading of the Journal of yesterday.

**Papers From The House  
Non-concurrent Matter**

Bill, "An Act Implementing the Reorganization of the Department of Human Services." (H. P. 1551) (L. D. 2012)

In the House March 7, 1972, Reports and Bill Indefinitely Postponed.

In the Senate March 7, 1972, Report "C" Ought to Pass in New Draft (H. P. 1610) (L. D. 2061) Read and Accepted and the Bill Passed to be Engrossed, in non-concurrence.

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

Mr. Violette of Aroostook moved that the Senate Insist and join in a Committee of Conference.

On motion by Mrs. Carswell of Cumberland, a division was had. Fourteen Senators having voted in the affirmative, and ten Senators having voted in the negative, the motion prevailed.

**Joint Resolution**

**State of Maine**

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

**Joint Resolution of the Maine  
Legislature**

Endorsing the Credo of the Elderly

WHEREAS, Steps for Maine's elderly recommended that Maine adopt a philosophy of aging because we are now confused and contradictory in our actions toward older citizens; and

WHEREAS, the elderly are caught in the maze of changes touching their family, employment and their place in society; and

WHEREAS, the Maine delegates to the White House Conference on Aging unanimously adopted the Credo of the Elderly and recommended its adoption by the One Hundred and Fifth Legislature of the State of Maine; and

WHEREAS, many national leaders of both political parties at that Conference called for a new national attitude toward aging; and

WHEREAS, the Credo of the Elderly expresses a clear, coherent philosophy of aging for Maine's 118,000 older people; now, therefore, be it

RESOLVED, the Senate concurring, that we, the members of the One Hundred and Fifth Legislature now assembled in special session, do hereby endorse the Credo of the Elderly as a general policy statement offering basic tenets to guide the endeavors of individuals and groups throughout the State of Maine; and be it further

RESOLVED, that a duly attested copy of this Resolution be transmitted forthwith by the Secretary of State to the older citizens of Maine through the Maine Committee on Aging in token of the sentiments expressed herein.

(H. P. 1614)

Comes from the House, Read and Adopted, as Amended by House Amendment "A" Thereto (H-636).

Which was Read.

House Amendment "A" was Read and Adopted and the Joint Resolution, as Amended, Adopted in concurrence.

**Orders**

On motion by Mr. Wyman of Washington,

WHEREAS, the sea and shore fisheries of Maine have always occupied a prominent place in the economic and industrial growth of the State; and

WHEREAS, the members of this Legislature have noted with grave concern a decline in activity and productivity of the Maine Fishing Industry; and

WHEREAS, this industry, once known as the cornerstone of prosperity, is currently plagued with many abusive and troublesome problems; now, therefore, be it

ORDERED, the House concurring, that there is created a Special Sea and Shore Fisheries Interim Study Committee to consist of 3 Senators to be appointed by the President of the Senate, 7 Representatives to be appointed by the Speaker of the House, and 5

public members to be appointed by the Governor with the advice and consent of the Council, to study the fishing industry of this State and for the purpose of this study any subject or matter adjudged by the committee to be relevant or germane to the subjects of its study or helpful to it in the consummation of the work hereunder shall be deemed within the scope of the committee's inquiry hereunder; and be it further

ORDERED, that the members of the committee be compensated for time spent in attendance of meetings of the committee and when engaged in performance of duties under instructions of the committee and authorization by its chairman at the rate of \$25 per day and actual expenses incurred in the performance of their duties under this Order; such sums to be paid out of the Legislative Account; and be it further

ORDERED, that all state departments and agencies shall make available to the committee as needed and to the extent possible the information, assistance and services of persons knowledgeable in the field under study; and be it further

ORDERED, that the committee shall have authority to employ professional and clerical assistance within the limits of funds provided; and be it further

ORDERED, that there is allocated to the committee from the Legislative Account the sum of \$5,000 to carry out the purposes of this Order. (S. P. 791)

Which was Read and Passed.

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

### **Committee Reports Senate**

Mr. Tanous for the Committee on Judiciary on, Bill, "An Act to Correct Errors and Inconsistencies in the Public Laws." (S. P. 715) (L. D. 2004)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-391)

Which report was Read and Accepted and the Bill Read Once. Committee Amendment "A" was Read and Adopted.

Thereupon, on motion by Mr. Berry of Cumberland, tabled, pending Assignment for Second Reading.

### **Committee of Conference Report**

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on

Bill, "An Act Relating to Inherent Managerial Functions Under the Municipal Employees Labor Relations Law." (H. P. 1531) (L. D. 1974)

ask leave to report:

That the Senate recede from its action whereby it accepted the Minority Report "B", refer to the 106th Legislature; the Minority Report "A", Ought to Pass as Amended; adopt Committee Amendment "A" (H-561); adopt Conference Committee Amendment "A" (S-392), submitted herewith; and Pass the Bill to be Engrossed, as Amended by Committee Amendment "A" and Conference Committee Amendment "A";

That the House recede and concur with the Senate and Pass the Bill to be Engrossed, as Amended by Committee Amendment "A" and Conference Committee Amendment "A".

On the part of the Senate:

DUNN of Oxford

CLIFFORD

of Androscoggin

On the part of the House:

HASKELL of Houlton

MARSTALLER

of Freeport

CAREY of Waterville

Which was Read.

Mr. Dunn of Oxford moved that the Senate accept the Conference Committee Report.

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

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: I was a member of the Committee of Conference, along with Senator Dunn from Oxford and Senator Clifford from Androscoggin. As you will notice, I did not sign the report with both of these gentlemen. In fact, I guess there was no place that I could sign the Committee of Conference Report as disagreeing with them.

So, apparently, on the record it doesn't indicate what all members do, and perhaps we ought to be thinking about these conference reports.

In any event, my reason for opposing this, Members of the Senate, is not a personal one. In fact, if anything at all, my feelings ought probably to be with the proponents who want to amend this bill.

First of all, I have a brother who is a superintendent of schools, who perhaps would love to see some legislation in this area. I also represent our local school board, so that I am put in an awkward position to oppose this particular bill, but I do oppose it, and I do oppose it very sincerely as Chairman of the Labor Committee, with which I have been charged to do a job.

I have put a lot of time on this bill, probably more time on this bill than any other bill that has come before this special session. I have researched every single state we have that has this particular law, and I haven't been able to find one state that uses the language proposed in the Committee of Conference report, not one single state. At least the original bill used the language of the Pennsylvania Law, but this Committee of Conference report, there isn't one state that uses the language that is used in this one.

Now, so far, we have argued pretty well the philosophy of these things, but maybe the members of this body aren't familiar with the process utilized under this particular section of the Collective Bargaining Law for Public Employees, and I feel that this is such an important matter that perhaps I ought to briefly explain to you the process used in arriving at contracts in your various communities between your school boards and your teachers.

The parties, when they prepare a budget, so to speak, or a contract, or they are commencing to work on a contract for the ensuing year, both parties get together and make their proposals to each other, or at least this is the way it ought to be. The teachers prepare a set of proposals and the school board

or the superintendent prepare proposals. They present each other with these proposals and then they discuss them among themselves. Then they get together and review the areas of agreement and the areas of disagreement. If one particular item comes up that they disagree upon, that your school board might say that this is an educational policy — it may be the color of the toilet paper, and this may be an educational policy, or any item of this type — your school board may hold strong and say that this is an educational policy, and the teachers will say that it isn't. I am using this as an example of a minor argument. Well, supposing that the school board is convinced, Members of the Senate, that it is an educational policy, supposing they are convinced and their feelings are that it is such, then the school board does not have to agree to this particular suggestion, to this demand, because the law merely tells them that they have to meet and consult, but not negotiate, on educational policies.

Now, where we run into trouble, or where we have run into trouble with this, is that some school boards have negotiated educational policies. Now, this isn't a problem with the law; it is a problem with the negotiators, it is a problem with the people that have given in. They don't have to give in. They can hold forth and say "This is an educational policy and we refuse to negotiate, and the law says that we don't have to." Now, if they disagree, from this point they can go to mediation. They have a mediator who comes in and listens to these various arguments of both parties, and the mediator will try to get the parties together and get the problem resolved. Now, if the mediator is unable to do this, then it goes to fact-finding and the fact finders make a determination. Then at this point, if they can't get together, it goes to arbitration, and this is where the matters are usually resolved.

Now, we have had two cases that have not been able to be resolved by arbitration. One was settled in the Superior Court, and the second one is presently pending in the Su-

preme Court of this state; we are awaiting a decision very shortly.

This is basically all that there is to this particular Collective Bargaining Law. If it is within the area of wages, hours, working conditions and contract grievances, there is no problem. When the question comes up as to this particular item being a matter of either educational policies, or whether it is a matter of wages, hours, contract grievances, or working conditions, there is no problem in the vast majority of the issues brought up.

Incidentally, when these contracts are prepared, there is a clause in these contracts that requires the Commissioner of Labor to approve them. Now, the school board can strike that clause out and enter into a contract without review or approval by the Labor Commissioner. Unfortunately, in the case that has gone to the Supreme Court the school board struck out this particular clause in the contract and entered into it without the approval of the Commissioner of Labor of the State.

Now, this brings us to the bill before us. We are concerned because the term "educational policies" is not properly defined. Well, in the thousands of laws that we have in the State of Maine you can flip any page open, any page of the law books in the state, and you will run into a multitude of words that are not defined. It is virtually impossible to try to define terms as such. Now, we have got problems, or at least we are told we have got problems, because of the two words "educational policies". So I bring to your attention the Committee of Conference report. We have got problems with these two words, and they are still there, incidentally. I ask you people to describe for me, to tell me, what these terms mean: the content in scheduling of educational programs, standards of services, utilization of technology, organizational structure, selection and direction of personnel. This "selection and direction of personnel" perhaps can be interpreted, but these other terms, I propose to you, can you give me a description of these terms without any argu-

ment from anybody? Certainly you are going to have arguments, and I don't care what terms or what words you use; the more words that you put into a law of this type, the more arguments you are going to have.

I am firmly convinced that what we should do is what we have done three times already in this body, and that is to refer this bill to the 106th and put an order in to have this matter studied. Within eight months from now this Legislature will reconvene under the title of the 106th Maine Legislature, and I am sure, after having a study conducted by people who are able and have the time, that we can come up with something, if there are some words we can come up with, that we can devise, that will answer the problem. I say this because this bill has been kicking around these halls now for five weeks. This will be here, Members of the Senate, as the fifth draft of this particular bill. Now, can we be so rash as to say that we have run into the proper combination of words? This is the third draft that I have seen since I have been on the Committee of Conference, and we have only met twice, and the time was probably only fifteen or twenty minutes each time.

I feel that this matter is much too involved for us to vote upon this morning. It entails such a wide scope of our Public Employee Collective Bargaining Law that it is just too quick, because we have had this law on the books and working with it for a little over two years, and to enact a change at this time, especially a change of this type, I sincerely say to you, Members of the Senate, that if you think we have problems now, permit this to be enacted, and you won't be able to get back here quick enough in eight months to change it. Thank you.

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

Mr. CLIFFORD of Androscoggin: Mr. President and Members of the Senate: I will agree with Senator Tanous from Penobscot that this is a tough problem, and I don't think any problem that

I have dealt with in the legislature has been any tougher for me to resolve than this one that is before you right now.

I feel a little bit like a ping pong ball, I have been bouncing back and forth from one side to the other, but I finally came to grips with the problem and I did sign the Committee of Conference Report, and I hope you would support Senator Dunn's motion to accept the Committee of Conference Report.

Perhaps I can explain to you how I came to this conclusion. I think everybody knows that the 104th Legislature passed a law relating to the Municipal Public Employees Labor Relations Law. That was the title of it, and they passed this in 1969. The general purpose of this act was to allow municipal employees to join unions and to bargain collectively. Now, Section 965 of this Municipal Public Employees Labor Relations Law, and that is what we are talking about here today, allowed municipal employees to negotiate with respect to wages, hours, working conditions, and contract grievances. All municipal employees have this right to negotiate in this area. But Subsection "C" of Section 965 gave teachers an additional right, an additional right that other municipal employees did not have. This additional right was that teachers could meet and consult with school boards and superintendents on educational policies. Now, keep in mind that the teachers could not negotiate in this area, but could meet and at least give their point of view with respect to educational policies.

Now, herein lies the whole problem of this argument or this dispute between the teachers and the superintendents and the school boards. It is the definition of "educational policies." To me, "educational policies" means the management of the school system. However, I think that everybody will agree it is a rather broad term, so broad, in fact, that Judge Tapley, who has been a Judge a lot longer than I have been a lawyer, called for help in defining this term. Now, the only ones that can define this term are the courts

and the legislature. This is what we are trying to do with the Committee of Conference Report, define the words "educational policy", so that when the teachers and the school boards sit down to negotiate a contract each side will know how far they can go in their demands and in the negotiations.

I think Senator Tanous's basic objection is that by trying to define the words we are creating more problems. Well, I say nothing ventured nothing gained, and I think that the proposal which you have before you under the Committee of Conference report makes a stab at it. It certainly is a better definition than the broad term that we are stuck with now. Once again, I would urge you to support Senator Dunn's motion to accept the Committee of Conference report, which was signed by five out of the six members of that Committee.

The PRESIDENT: Is the Senate ready for the question? The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: The term nothing ventured nothing gained, if you apply that in each instance, especially if you are at a race track and you bet on a horse that has never won, it would be foolhardy to do so, especially if his time has never been any better with a six furlong than 1:16; you certainly would be in trouble betting on a horse like that. This is far too important to rationalize by saying that nothing ventured nothing gained. I think that it needs study.

If you use the weight that my friend from Androscooggin, Senator Clifford, has given you, that five members of the committee favored this particular amendment to the bill, then I would refresh your memory on the original report of the Labor Committee, that seven out of thirteen wanted that particular bill to merely make a change to conform with the National Labor Relations Law, and there were only two members of that committee that wanted to enact legislation in this area that would make any drastic changes, such as proposed by the Committee of Conference

Amendment. This adds no weight to an argument. I think it goes to the basic concept or at the heart of it, the understanding of the problem, living with it, studying it, and this is the important thing. I don't think that any committee in two short meetings of fifteen or twenty minutes can certainly come up with the wisdom of Solomon in solving such a problem as vast and deep as this one.

I would oppose the motion of my good friend, Senator Dunn from Oxford, and I would ask for a roll call vote on this, Mr. President. Thank you.

The PRESIDENT: A roll call has been requested. The pending question before the Senate is the motion of the Senator from Oxford, Senator Dunn, that the Senate accept the Report of the Committee of Conference on Bill, "An Act Relating to Inherent Managerial Functions Under the Municipal Employees Labor Relations Law."

The Chair recognizes the Senator from Oxford, Senator Dunn.

Mr. DUNN of Oxford: Mr. President and Members of the Senate: As the Senator from Penobscot, Senator Tanous, mentioned we only met twice, but the first meeting was probably an hour and fifteen minutes, rather than fifteen minutes, and we would have had it earlier if all of the members had been around, but it was difficult to get together. Yesterday's meeting was not a long one; it was maybe from fifteen minutes to a half an hour.

This is an attempt to clarify the language a little bit, and the majority of the committee felt that it would be helpful. We passed a bill a few days ago, L. D. 2007, that sets up a board which will be able, when it is in operation, probably in about two years, to make definitions and so forth, but in the meantime we hoped that this would help, and I hope you will support the motion.

The PRESIDENT: A roll call has been requested. In order for the Chair to order a roll call, under the Constitution, 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 pending question before the Senate is the motion of the Senator from Oxford, Senator Dunn, that the Senate accept the Majority Report of the Committee of Conference on Bill, "An Act Relating to Inherent Managerial Functions Under the Municipal Employees Labor Relations Law." A Yes vote will be in favor of accepting the Report of the Committee of Conference; a No vote will be opposed.

The Secretary will call the roll.

### ROLL CALL

YEA: Senators Anderson, Berry, Chick, Clifford, Dunn, Greeley, Hichens, Hoffses, Marcotte, Minkowsky, Moore, Peabody, Quinn, Schulten, Sewall, and Shute.

NAY: Senators Bernard, Carswell, Conley, Graham, Harding, Johnson, Kellam, Martin, Tanous, Violette, Wyman and President MacLeod.

ABSENT: Senators Danton, Fortier, Katz and Levine.

A roll call was had. Sixteen Senators having voted in the affirmative, and twelve Senators having voted in the negative, with four Senators absent, the motion prevailed.

Thereupon, the Senate voted to recede from its prior action whereby it Accepted the Minority Report "B" of the Committee to refer the matter to the 106th Legislature and, subsequently, Accepted the Minority Ought to Pass as Amended Report "A" of the Committee.

Committee Amendment "A" was Read and Adopted. Conference Committee Amendment "A" was Read and Adopted and the Bill, as Amended, Passed to be Engrossed.

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

### Enactors

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

An Act Implementing the Reorganization of the Department



of Finance and Administration. (H. P. 1546) (L. D. 2002)

On motion by Mr. Anderson of Hancock, a division was had. Twenty-one Senators having voted in the affirmative, and six Senators having voted in the negative, the Bill was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

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

Mr. CONLEY of Cumberland: Mr. President, having voted on the prevailing side, I would now move that we reconsider our action whereby we enacted this L. D., and hope that everyone will vote against me.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate reconsider its action whereby Bill, An Act Implementing the Reorganization of the Department of Finance and Administration, was passed to be enacted. As many Senators as are in favor of reconsideration will please say Yes; those opposed, No.

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

#### Reconsidered Matter

Mr. Danton moved that the Senate reconsider its action whereby Bill, "An Act Implementing the Reorganization of the Department of Business Regulation" (S. P. 787) (L. D. 2059), Failed of Passage to be Engrossed.

On motion by Mr. Clifford of Androscoggin, a division was had. Fifteen Senators having voted in the affirmative, and thirteen Senators having voted in the negative, the motion prevailed.

Thereupon, the Bill was Passed to be Engrossed and, under suspension of the rules, sent down forthwith for concurrence.

On motion by Mr. Hoffses of Knox,

Recessed until the sound of the bell.

#### (After Recess)

Called to order by the President.  
**Papers from the House**

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

#### Enactors

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

An Act Relating to Guarantees by the Maine Industrial Building Authority. (S. P. 706) (L. D. 1887)

An Act to Revise the Maine Land Use Regulation Commission Law. (S. P. 709) (L. D. 1890)

An Act Implementing the Reorganization of the Department of Environmental Protection. (S. P. 772) (L. D. 2051)

Which 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 Implementing the Reorganization of the Department of Manpower Affairs. (S. P. 779) (L. D. 2058)

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Dunn.

Mr. DUNN of Oxford: Mr. President, I would request 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 pending question is the enactment of Bill, An Act Implementing the Reorganization of the Department of Manpower Affairs. A Yes vote will be in favor of enactment of this bill; a No vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEA: Senators Berry, Carswell, Clifford, Conley, Danton, Graham, Harding, Johnson, Kellam, Marcotte, Martin, Minkowsky, Moore, Peabody, Sewall, Shute, Tanous, Violette, Wyman, and President MacLeod.

NAY: Senators Anderson, Chick, Dunn, Greeley, Hichens, Hoffses, Quinn, and Schulten.

ABSENT: Senators Bernard, Fortier, Katz, and Levine.

A roll call was had. Twenty Senators having voted in the affirmative, and eight Senators having voted in the negative, with four Senators absent, the Bill was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

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

Mr. VIOLETTE of Aroostook: Mr. President, having voted on the prevailing side, I move the Senate reconsider its action whereby it enacted this bill, and I hope you will vote against my motion.

The PRESIDENT: The Senator from Aroostook, Senator Violette, moves that the Senate reconsider its action whereby L. D. 2058 was passed to be enacted. As many Senators as are in favor of reconsideration will please say Yes; those opposed, No.

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

On motion by Mr. Berry of Cumberland, the Senate voted to take from the table the following unassigned matter:

Bill, "An Act Imposing a Tax on the Unorganized Territory Within the Maine Forestry District for Spruce Budworm Control." (H. P. 1510) (L. D. 1952)

Tabled — February 8, 1972 by Senator Berry of Cumberland.

Pending — Enactment.

Mr. Berry of Cumberland moved that the Bill and all accompanying papers be Indefinitely Postponed.

Mr. Martin of Piscataquis then moved that the Bill be tabled and Tomorrow Assigned, pending the motion by Mr. Berry of Cumberland to Indefinitely Postpone.

Mr. Berry of Cumberland then requested a division.

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

Mr. VIOLETTE of Aroostook: Mr. President, a point of order: would a motion to table until later in today's session take precedence?

The PRESIDENT: The Senator is correct.

Thereupon, on motion by Mr. Violette of Aroostook, tabled until later in today's session, pending

the motion by Mr. Berry of Cumberland to Indefinitely Postpone.

### Enactors

On motion by Mr. Sewall of Penobscot, the Senate voted to take from the Special Appropriations Table, An Act Providing for a Change in Standard Deductions in Income Tax Law. (H. P. 1547) (L. D. 2003)

On further motion by the same Senator, Indefinitely Postponed in non-concurrence.

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

On motion by Mr. Sewall of Penobscot, the Senate voted to take from the Special Appropriations Table, An Act Establishing A Tuition Equalization Fund for Maine Students Entering Maine Private Colleges. (H. P. 1575) (L. D. 2032)

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

On motion by Mr. Sewall of Penobscot, the Senate voted to take from the Special Appropriations Table, An Act Creating a State Employee's Suggestion Awards Board (H. P. 1507) (L. D. 1949)

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

Mr. SEWALL of Penobscot: Mr. President and Members of the Senate: I think it only right that I bring to the attention of the Senate that leadership, in all its wisdom, really just couldn't decide what to do with this item. This has been lying around quite a while and everybody was pretending it wasn't there because, I think, while they liked the idea of it, they aren't too keen on introducing another department when the Appropriations Committee, and the Legislature following suit, singled this item out for execution during the regular session. I would tell the Senate we agreed there would be no lobbying done on the part of leadership amongst the various members of the Senate. So just to get the ball rolling, so to speak, I will make a very quiet motion

of indefinite postponement of this bill and all of its accompanying papers, and see what happens.

The PRESIDENT: The Senator from Penobscot, Senator Sewall, moves that Bill, An Act Creating a State Employee's Suggestion Awards Board, be indefinitely postponed.

The Chair recognizes the Senator from Aroostook, Senator Violette.

Mr. VIOLETTE of Aroostook: Mr. President and Members of the Senate: It is with a great degree of reluctance that I rise to oppose the motion by the good Senator from Penobscot, Senator Sewall. I know we have had this bill before us for a considerable length of time. We also had it last session, and in the closing hours it was one of those that stayed on the Appropriations Table until, I guess, the last round and finally it was decided that it would be sacrificed for the lack of money, but I think there is money this time.

I have always liked the idea. I know some people say well, you shouldn't have to award anything to people to do their job, and I suppose in a sense it is true, but I think sometimes if there are incentives for people to go out of their way to try to improve situations in departments, with some awards, in the long run it might pay off. I know many of our industries in the country have such programs where their employees, apart and aside from their regular duties, do give some thought to improving the operating conditions of their departments, their areas, and are given awards when they come up with suggestions that in the long run save money. I look at this bill in this nature. I would hope that the Senate would not support the motion from my good friend, Senator Sewall from Penobscot, and would enact this bill because, I think, in the long run it would be a step in the right direction.

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

Mr. HARDING of Aroostook: Mr. President and Members of the Senate: Perhaps some of the others of you have received this letter, but I think it is a good letter and,

it sets forth the Maine State Employee's position on this matter. For whatever it may be worth to you, I would like to read this for the record.

"Dear Senator Harding: The Maine State Employees Association is seeking your support and the support of the Maine State Senate of L. D. 1949, which reinstates the Employees Awards Program to State service. During the first year of its operation it is estimated that the State of Maine received more than \$60,000 in identifiable cumulative savings from this program. The goals of the program, before its elimination during the last regular session, were: one, savings of \$175,000 to \$250,000 each year. Two, participation rate by employees of twenty-five percent, resulting in nearly 3,000 suggestions per year. The potential impact the awards program would have in promoting both economy and efficiency far outweigh its minimal cost. Sincerely, Linwood H. Butterfield, President."

It seems to me they have made a very good case for this, and I would hope that the motion for indefinite postponement would be defeated. If a division has not been requested, I would ask for a division when the vote is taken.

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

Mr. CONLEY of Cumberland: Mr. President and Members of the Senate: It is seldom that I take exception to the great Minority Floor Leader, the Senator from Aroostook, Senator Violette, but today we have been passing reorganization bills right down the line, and the intent of the reorganization bills are to save money as far as running state government. I have always heard about the dedicated public or state employees and I think that they are, and I think that they will continue to offer suggestions along the line of work and the savings of moneys. But I honestly think that the Chairman of the Appropriations Committee should perhaps be given the award this year as far as savings of moneys because this little item here is

\$35,000 to operate another department.

The Appropriations Committee was unanimous when it rejected this during the regular session and it was also unanimous in its support of defeating this bill during the special session. So, I would hope that the Senate would go along, because we are trying to save money and I think that this is an excellent place to save it.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Dunn.

Mr. DUNN of Oxford: Mr. President and Members of the Senate: When the Suggestion Awards Board was instituted a few years ago, it was said that you could save three or four dollars for each dollar that you put into the program. It worked out just the opposite; it cost us three or four dollars for each one we saved. So, I go along with indefinite postponement.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I am glad that the Senator from Penobscot, Senator Sewall, and the Senator from Cumberland, Senator Conley, didn't pull out their big guns, because they can be devastating when they really zero in on something.

I join Senator Violette and the other gentleman on the left wing here -

The PRESIDENT: Is the Senator referring to the Senator from Aroostook, Senator Harding?

Mr. BERRY: The President is correct, sir. I do feel that this is an investment of a small amount of money that should reap a reasonable benefit. I agree with what Senator Sewall has said that this isn't probably the most important thing we have had. I would point out that it was introduced by a former member of this body, then Senator, now Representative, Lund of Augusta, who I know is quite familiar with the situation because of his residence in Augusta. I hope, without any devastation of your conscience, that you would be able to vote against my very, very, good friend, Senator Sewall.

The PRESIDENT: The pending question before the Senate is the motion of the Senator from Penobscot, Senator Sewall, that Bill, An Act Creating a State Employee's Suggestions Awards Board, be indefinitely postponed.

A division has been requested. As many Senators as are in favor of the motion to indefinitely postpone this bill will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. Eighteen Senators having voted in the affirmative, and ten Senators having voted in the negative, the Bill was Indefinitely Postponed in non-concurrence.

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

On motion by Mr. Hoffses of Knox,

Recessed until 1:30 o'clock this afternoon.

(After Recess)

Called to order by the President.  
**Committee of Conference**

On the disagreeing action of the two branches of the Legislature on Bill, "An Act Implementing the Reorganization of the Department of Human Services, " (H. P. 1551) (L. D. 2012), the President appointed the following Conferees on the part of the Senate: Senators:

JOHNSON of Somerset  
HARDING of Sroostook  
CONLEY of Cumberland

### Emergency

The President laid before the Senate the first matter tabled earlier in today's session, by Mr. Violette of Aroostook:

An Act Imposing a Tax on the Unorganized Territory Within the Maine Forestry District for Spruce Budworm Control. (H. P. 1510) (L. D. 1952)

Pending - motion by Mr. Berry of Cumberland to Indefinitely Postpone.

Mr. Berry of Cumberland then withdrew his motion for Indefinite Postponement.

Thereupon, this being an emergency measure and having re-

ceived the affirmative votes of 29 members of the Senate was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

#### **Papers 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 the Subcommittee on County Government of the Legislative Research Committee be, and hereby is, directed to study the subject matter of the Bill: "An Act Relating to Revenue Sharing and Financial Relief to Counties for Expenses of the Superior and Supreme Judicial Courts," Senate Paper 712, Legislative Document 1986, introduced at the First Special Session of the 105th Legislature, to determine whether the best interests of the State would be served by the enactment of such legislation; and be it further

ORDERED, that the Committee report its findings and recommendations at the next regular session of the Legislature. (H. P. 1615)

Comes from the House, Read and Passed.

Which was Read and Passed in Concurrence.

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

Mr. SEWALL of Penobscot: Mr. President, is the Senate in possession of An Act to Appropriate Moneys for the Expenditures of State Government and Other Purposes for the Fiscal Years Ending June 30, 1972 and June 30, 1973, (S. P. 768) (L. D. 2047)?

The PRESIDENT: The Chair would answer in the affirmative, the bill having been held at the request of the Senator.

On motion by the same Senator, the Senate then voted to reconsider its prior action whereby the Bill Failed of Enactment.

Thereupon, on further motion by the same Senator, tabled and Tomorrow Assigned, pending Enactment.

#### **Papers From The House**

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

#### **Communication**

State of Maine  
House of Representatives  
Office of the Clerk  
Augusta, Maine 04330

March 9, 1972

Hon. Harry N. Starbranch

Secretary of the Senate

105th Legislature

First Special Session

Sir:

The Speaker today appointed the following Committee of Conference on the disagreeing action of the two branches of the Legislature on:

Bill "An Act Implementing the Reorganization of the Department of Human Services" (H. P. 1551) (L. D. 2012)

Mr. HODGDON of Kittery

Mrs. WHITE of Guilford

Mrs. DOYLE of Bangor

Respectfully,

BERTHA W. JOHNSON

Clerk of the House

Which was Read and Ordered Placed on File.

(Off Record Remarks)

On motion by Mr. Hoffses of Knox,

Recessed pending the sound of the bell.

(After Recess)

Called to order by the President.

#### **Papers From The House**

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

#### **Joint Resolution**

State of Maine

In the Year of Our Lord

One Thousand Nine Hundred and Seventy-two

WHEREAS, the Maine Poultry Industry commands the enviable position of being the nation's major source of premium quality chicken; and

WHEREAS, the Maine Poultry Industry is the state's leading agricultural enterprise and accounts for nearly one-half of Maine's agricultural market income dollars; and

WHEREAS, the Industry involves more than \$100 million in cash receipts, direct payrolls for over

5,000 farmers and processing plant employees in excess of \$30 million and \$58 million in processing costs plus vast sums paid to Maine business firms for goods and services; and

WHEREAS, these payrolls and other monetary outlays are vital to the health and continued growth of the economy of the State of Maine; and

WHEREAS, a large segment of Maine's traditional agricultural community consisting of contract chicken growers and their families depend upon a healthy and growing chicken market for their livelihood; and

WHEREAS, the recent discovery of a potentially harmful chemical compound, Polychlorinatedbiphenyl, in a limited number of chicken flocks as the result of the accidental contamination of a known quantity of chicken feed, has created an unwholesome atmosphere of fear and confusion among the consuming public; and

WHEREAS, this fear and confusion has lead to a serious erosion of the normally high demand for Maine chicken and threatens serious irreparable economic harm to this industry and the thousands of Maine people who are dependent upon it for their livelihood; now, therefore, be it

RESOLVED, that we, the members of the 105th Legislature of the State of Maine, now assembled in special session, take this opportunity to publicly acknowledge and express our faith and confidence in the wholesomeness and superlative quality of Maine chicken as evidenced by the USDA and FDA's approval of the industry's marketable products and to extend our support and cooperation to the Maine Poultry Industry by urging and encouraging consumers, public and private eating establishments, to give Maine chicken high priority in their menu fares; and be it further

RESOLVED, that a suitable copy of this Joint Resolution be transmitted forthwith to the Poultry Industry in token of our support.

(H. P. 1616)

Comes from the House, Read and Adopted.

Which was Read and Adopted in concurrence.

### Orders

Out of order and under suspension of the rules, on motion by Mr. Johnson of Somerset,

ORDERED, The House concurring, that there is allocated from the Legislative Account the sum of \$5,000 to the Joint Standing Committee of the Legislature on State Government for the purpose of continuing the Governmental Reorganization Study established pursuant to House Paper 1443 of the last regular session and super-vise the implementation thereof. (S. P. 793)

Which was Read and Passed.

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

### Papers from the House

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

#### Non-concurrent Matter

Bill, "An Act Implementing the Reorganization of the Department of Business Regulation." (S. P. 729) (L. D. 2011)

In the Senate March 8, 1972, Report "C" Ought to Pass in New Draft (S. P. 787) (L. D. 2059) Read and Accepted and the Bill Passed to be Engrossed.

Comes from the House, the Reports and Bill Indefinitely Postponed, in non-concurrence.

Mr. Berry of Cumberland moved that the Senate Insist.

Mr. Clifford of Androscoggin then moved that the Senate Recede and Concur.

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

Mr. JOHNSON of Somerset: Mr. President and Members of the Senate: I would ask for a division. I would like to say that I believe we have the votes in the other body to pass this bill, and the bill has been pre-engrossed, so it will not keep us here in case it does pass.

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

Mr. CLIFFORD of Androscoggin: Mr. President and Mem-

bers of the Senate: This bill was fairly well debated a day or two ago in this body. This is the Act Implementing the Reorganization of the Department of Business Regulation. The reason I objected to it was that the banks were included in this bill, and I don't think they belong there. I think the whole bill brings together a group of departments that have no relation one to the other, and I just don't think that it is a natural marriage of these departments.

It looks like now we are going to be enacting about ten of the thirteen reorganizational bills, and I say that this is a pretty good batting average. Let's see how they work out, and maybe at the 106th you can enact more of these measures. But I think this lost, failed of enactment, or was indefinitely postponed down in the other body by about twelve votes. I could be wrong on the total, but this was my recollection, but I think that, rather than spend any more time on this bill, we ought to recede and concur with the House. I hope you would support my motion and, when the vote is taken, I move that it be taken by the Yeas and Nays.

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

Mr. CONLEY of Cumberland: Mr. President and Members of the Senate: I hate to take issue with the good Senator from Androscoggin, Senator Clifford. This bill is pre-engrossed. We have been assured that there are enough votes to pass this in the other body, and I would hope that the Senate would vote against the motion to recede and concur.

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

Mrs. CARSWELL of Cumberland: Mr. President, a point of order: Isn't there a rule that states we should not state what action has been taken by the other branch to influence the action of this branch?

The PRESIDENT: The Chair believes that is a House rule but is not certain it is a Senate rule. I will check.

Mrs. CARSWELL: Mr. President, I would like to know.

The PRESIDENT: The Senate will be at ease.

(Senate at Ease)

Called to order by the President.

The PRESIDENT: The Chair can find no reference in the Joint Rules or the Senate Rules, with a hasty reading, but I am sure the Senate will disregard any remarks made by the Senator from Cumberland, Senator Conley, if that rule is in the rule book.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY of Cumberland: Mr. President, if my remarks referring to the votes being there in the other body do upset any members of the Senate, I would like to have my remarks removed from the record.

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

Mrs. CARSWELL of Cumberland: Mr. President and Members of the Senate: I think any Senator has a right to make an inquiry, and I feel that the remarks of the Senator from Cumberland, Senator Conley, are uncalled for.

I would like to say that I feel the report speaks for itself. It comes from the House, Report and Bill indefinitely postponed in non-concurrence. That is very clear. I think if we want to save the taxpayers money, and go home in somewhat a reasonable time, I think we should recede and concur, and I hope that we will do this.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from Androscoggin, Senator Clifford, that the Senate recede and concur with the House on Bill, "An Act Implementing the Reorganization of the Department of Business Regulation." A roll call has been requested. In order for the Chair to order a roll call, under the Constitution, 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.

**ROLL CALL**

**YEAS:** Senators Anderson, Bernard, Carswell, Chick, Clifford, Dunn, Greeley, Hoffses, Moore, Peabody, Quinn, Schulten, and Shute.

**NAYS:** Senators Berry, Conley, Danton, Graham, Harding, Johnson, Kellam, Marcotte, Martin, Minkowsky, Sewall, Tanous, Violette, and President MacLeod.

**ABSENT:** Senators Fortier, Hichens, Katz, Levine, and Wyman.

Mr. Marcotte of York was granted leave to change his vote from Yea to Nay.

A roll call was had. Thirteen Senators having voted in the affirmative, and fourteen Senators having voted in the negative, with five Senators absent, the motion did not prevail.

Thereupon, the Senate voted to Insist.

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

**Committee Reports****House  
Ought to Pass**

The Committee on Appropriations and Financial Affairs on, Bill, "An Act to Provide Funds to Assist County Attorneys in the Administration of the Court System." (H. P. 1613) (L. D. 2062)

Reports pursuant to Joint Order (H. P. 1612) that the same Ought to Pass.

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

Which reported was Read and Accepted in concurrence and the Bill Read Once. Under suspension of the rules the bill was then given its Second Reading.

Mr. Clifford of Androscoggin presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-394, was Read.

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

Mr. **CLIFFORD** of Androscoggin: Mr. President and Members of the Senate: This amendment that I have just offered is a proposed pay raise for all county attorneys throughout the state. It

raises each county attorney's salary \$1500, and it raises each assistant county attorney, where there are assistants, \$1000. Now, this is all the amendment does. I would hope that we could adopt this.

The **PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Sewall.

Mr. **SEWALL** of Penobscot: Mr. President and Members of the Senate: I am quite sure that this is probably one of the most fruitless efforts on anyone's part, my rising to oppose this amendment. I don't underestimate the strength of the legal fraternity when they band together, and I am sure in this instance that they have. I am distressed at this late hour that this amendment and another one are to be attached to this very late in the session bill, which was brought out of the Appropriations Committee more or less as an accommodation to the Attorney General's Department in an attempt to create better prosecution here in the state. I know this is an exercise in nothing. I do though want to call attention to the Senate that this kind of thing can lengthen the session. This bill will go back to the other body in non-concurrence and it will have to be un-engrossed, so on and so on.

I object to this because it seems a little frustrating, we pretty much have our fiscal package in shape, and who knows, maybe tomorrow it will be pay raises for all the custodians in the county court-houses and city halls throughout the state. I don't really see much end to it, especially if this powerful group decides this should be done, so I object to this amendment and would ask that it be indefinitely postponed.

The **PRESIDENT:** The Chair recognizes the Senator from Piscataquis, Senator Martin.

Mr. **MARTIN** of Piscataquis: Mr. President and Members of the Senate: When I saw this amendment here I immediately looked at it to see what it would do to my county. I found that under the county attorney's salary the salary was \$7000. It was increased from \$5000 to \$7000 at the 104th. Since then I have talked to my county attorney and was told that he did



not want the increase. We gave an increase at the 104th of \$2000, and now in this amendment we are giving him another increase that he doesn't want of \$1500, so I would go along with Senator Sewall from Penobscot County to indefinitely postpone this amendment.

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

Mr. CLIFFORD of Androscoggin: Mr. President and Members of the Senate: I would ask that when the vote is taken that it be taken by a roll call on the motion of Senator Sewall.

I think that we can safely say that it doesn't look like there is going to be any prosecutor bill come out of this special session of the legislature. I also think that everybody in this body will agree that law enforcement, particularly in the field of prosecution, needs some strengthening. The idea behind this amendment is to make the job a little more attractive than it has been. Perhaps we can persuade a few more people to run for the office of county attorney throughout the various counties in the state. If we can get a few more people running for the office, hopefully, the voters will have a better choice, and as a result we will come out with somewhat a little more strength in our prosecution system, which everybody agrees is sorely needed.

Now, the total price tag on this bill is \$36,000, and I think this is a small price to pay if there is a hope that this bill will in fact strengthen the prosecution system in this state.

The PRESIDENT: The pending question before the Senate is the indefinite postponement of Senate Amendment "A". A roll call has been requested. In order for the Chair to order a roll call, under the Constitution, 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 pending question is the

motion of the Senator from Penobscot, Senator Sewall, that Senate Amendment "A" be Indefinitely Postponed. A Yes vote will be in favor of the indefinite postponement of Senate Amendment "A"; a No vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Anderson, Dunn, Graham, Greeley, Hoffses, Johnson, Martin, Minkowsky, Moore, Quinn, Schulten, Sewall, Shute, Tanous, and President MacLeod.

NAYS: Senators Bernard, Berry, Carswell, Clifford, Conley, Danton, Harding, Kellam, Marcotte, Peabody, and Violette.

ABSENT: Senators Chick, Fortier, Hichens, Katz, Levine and Wyman.

A roll call was had. Fifteen Senators having voted in the affirmative, and eleven Senators having voted in the negative, with six Senators absent, Senate Amendment "A" was Indefinitely Postponed.

Thereupon, the Bill was Passed to be Engrossed in concurrence.

Under suspension of the rules, sent forthwith to the Engrossing Department.

The PRESIDENT: The Chair would inform the Senate that a further perusal of the Joint Rules and the Rules of the Senate does not indicate anything with regard to referral to matters in the other body, but Senate Rule 37 provides "The rules of parliamentary practice comprised in Reed's Rules, or any other standard authority, shall govern the Senate in all cases to which they are applicable."

Section 111 of Mason's Legislative Manual says "It is unparliamentary and inconsistent with the independence of a legislative body to refer to the name or office of the Executive in order to influence the vote. It is irregular and unparliamentary for a member of one house of a legislature to quote or refer to a vote by which a measure passed the other house."

The Chair would like to inform the Senate that both the Senator from Androscoggin, Senator Clifford, in referring to the vote in the other branch and the Senator from Cumberland, Senator Conley,

in referring to the other branch, were in error, and I am sure they will mend their ways in the future.

The **PRESIDENT**: The Chair recognizes the Senator from Knox, Senator Hoffses.

Mr. **HOFFSES** of Knox: Mr. President, a point of order: Do all Senators have to vote unless they are excused?

The **PRESIDENT**: Any Senator in his seat must vote.

#### **Divided Report**

The Majority of the Committee on State Government on, Bill, "An Act Creating the Maine Industrial Port Authority." (H. P. 1505) (L. D. 1947)

Reports in New Draft (H. P. 1592) (L. D. 2050) Under Same Title, which had been recommitted, that the same Ought to Pass.

Signed:

Senator:

**WYMAN** of Washington  
Representatives:

**COONEY** of Webster

**CURTIS** of Orono

**MARSTALLER**

of Freeport

**SHAW** of Chelsea

**STILLINGS** of Berwick

**BUSTIN** of Augusta

**HODGDON** of Kittery

**DONAGHY** of Lubec

**GOODWIN** of Bath

**SILVERMAN** of Calais

**FARRINGTON**

of Old Orchard Beach

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

Signed:

Senators:

**JOHNSON** of Somerset  
**CLIFFORD**

of Androscoggin  
Comes from the House, the Majority Ought to Pass report Read and Accepted and the Bill Indefinitely Postponed.

Which reports were Read.

On motion by Mr. Johnson of Somerset, the Minority Ought Not to Pass Report of the Committee was Accepted in concurrence.

On motion by Mr. Berry of Cumberland, the Senator voted to take from the table the following tabled and unassigned matter:

An Act to Correct Errors and Inconsistencies in the Public Laws. (S. P. 715) (L. D. 2004)

Tabled - March 9, 1972 by Senator Berry of Cumberland.

Pending - Assignment for Second Reading.

On motion by Mr. Tanous of Penobscot, and under suspension of the rules, the Bill was given its Second Reading.

Mr. Tanous of Penobscot then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-396, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed.

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

On motion by Mr. Hoffses of Knox,

Adjourned until 9:30 o'clock tomorrow morning.