

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

1st Special Session

OF THE

*One Hundred and Sixth
Legislature*

OF THE

STATE OF MAINE

1974

Kennebec Journal
Augusta, Maine

HOUSE

Tuesday, January 29, 1974

The House met according to adjournment and was called to order by the Speaker.

Prayer by Father Leonard LeClair of Togus.

The journal of yesterday was read and approved.

Orders Out of Order

Mrs. Lewis of Auburn presented the following Order and moved its passage:

ORDERED, that Donna Bennett, Mark McDonough, William Knight and Theresa Guerette of Auburn be appointed Honorary Pages for today.

The Order was received out of order by unanimous consent, read and passed.

Mr. McMahan of Kennebunk presented the following Order and moved its passage:

ORDERED, that Mark Nedeau, Debbie Nedeau and Kim Warren of Kennebunk be appointed Honorary Pages for today.

The Order was received out of order by unanimous consent, read and passed.

Mr. Gauthier of Sanford presented the following Order and moved its passage:

ORDERED, that Dave Desruisseaux, Garry Gosselin, Mike Veilleux, Doreen Jacques and Laurie Flayhan of Sanford be appointed Honorary Pages for today.

The Order was received out of order by unanimous consent, read and passed.

**Papers from the Senate
Reports of Committees
Ought to Pass in New Draft**

Committee on Transportation on Bill "An Act to Implement the Federal Aid Safer Roads Demonstration Program and to Make Additional Allocations from the General Highway Fund" (S. P. 752) (L. D. 2162) reporting "Ought to pass" in New Draft (S. P. 878) (L. D. 2443) under same title.

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed.

In the House, the Report was read and accepted in concurrence, the New Draft read once and assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Taxation on Bill "An Act Exempting Certain Sales through Coin-operated Vending Machines from the Sales Tax" (S. P. 753) (L. D. 2163) reporting "Ought to pass"

Report was signed by the following members:

Messrs. COX of Penobscot
WYMAN of Washington
FORTIER of Oxford

— of the Senate.

Messrs. MERRILL of Bowdoinham
MORTON of Farmington
COTTRELL of Portland
DRIGOTAS of Auburn
IMMONEN of West Parish
MAXWELL of Jay
DOW of West Gardiner
DAM of Skowhegan
SUSI of Pittsfield

--- of the House

Minority Report of the same Committee on same Bill reporting "Ought not to pass."

Report was signed by the following member:

Mr. FINEMORE of Bridgewater

— of the House.

Came from the Senate with the Majority Report accepted and the Bill passed to be engrossed.

In the House: Reports were read.

On motion of Mr. Finemore of Bridgewater, the Majority "Ought to pass" Report was accepted in concurrence.

The Bill was read once and assigned for second reading tomorrow.

Non-Concurrent Matter

Bill "An Act Providing Funds for Marine Research" (H. P. 1768) L. D. 2240) which was enacted in the House on January 18.

Came from the Senate with the Bill passed to be engrossed as amended by Senate Amendment "A" (S-327) in non-concurrence.

In the House: On motion of Mr. Simpson of Standish, the House voted to recede and concur.

**Non-Concurrent Matter
Tabled and Assigned**

Bill "An Act to Authorize a Food Stamp Program in Cumberland County" (H. P. 1898) (L. D. 2402) which was

passed to be engrossed in the House on January 24.

Came from the Senate with the Bill indefinitely postponed in non-concurrence.

In the House: On motion of Mr. Simpson of Standish, tabled pending further consideration and specially assigned for Thursday, January 31.

Petitions, Bills and Resolves Requiring Reference

The following Bills and Resolution were received and, upon recommendation of the Committee on Reference of Bills, were referred to the following Committees:

Appropriations and Financial Affairs

Bill "An Act Appropriating Funds to Provide for Secretarial Assistance to the Members of the Legislature" (H. P. 1927) Emergency (Presented by Mr. Simpson of Standish)

Bill "An Act Relating to Salary, Expenses and Travel of Members of Legislature" (H. P. 1928) (Presented by Mr. Simpson of Standish)

(Ordered Printed)

Sent up for concurrence.

State Government

Resolution Proposing an Amendment to the Constitution to Establish a Legislative Compensation Commission (H. P. 1929) (Presented by Mr. Simpson of Standish)

(Ordered Printed)

Sent up for concurrence.

Orders

Mr. Tyndale of Kennebunkport granted unanimous consent to address the House.

Mr. TYNDALE: Mr. Speaker, Ladies and Gentlemen of the House: In the many years I have spent in these hallowed halls, it has been my pleasure and privilege to meet and observe numbers of dedicated and distinguished men whose only intent was to contribute their services to their beloved state and communities, oft times at both a time and financial sacrifice.

I don't know of any member who has done more for the state and its citizens than the distinguished gentleman from Bath, Mr. Rodney Ross. His dedication and conscientious service over and

beyond the call of duty commands the profound respect of all of his colleagues. Certainly his contributions to Maine in the many civic organizations he has been identified with are too numerous to mention here. I understand he is having another honor bestowed upon him in Chicago this weekend.

He is a descendant of an illustrious family whose generosities to the Town of Kennebunk, where they resided over many years, are a matter of historic record. Recently, Rodney continued this tradition by contributing to School Administrative District No. 71 thirty acres of extremely valuable land upon which they hope to build one of the finest new school complexes in the State of Maine. In humble gratitude, the District intends to name one of the buildings the Ross Library.

Rodney, I know I speak for the entire communities of Kennebunk and Kennebunkport, which are served by SAD 71, in extending to you and your lovely wife, Mary Frances, their deep appreciation and sincerest thanks for this most generous gift. Thank you. (Applause)

Mr. McMahon of Kennebunk was granted unanimous consent to address the House.

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: I would add to what my colleague from Kennebunkport said in commending Mr. Ross for his donation to School Administrative District 71. That District includes both the towns of Kennebunk and Kennebunkport, and Mr. Ross' contribution is very much appreciated by the people of my town.

Mr. Ross of Bath was granted unanimous consent to address the House.

Mr. ROSS: Mr. Speaker, Ladies and Gentlemen of the House: Thank you very much, indeed. I am not deserving of the flowery oratory of Mr. Tyndale, but I certainly do thank him. I have always had a keen and extremely fond interest in the towns of Kennebunk, Kennebunk Beach and Kennebunkport. For nine generations my family on my father's side came from the Town of Kennebunk, and as a younger man I have very many pleasant memories of it. For instance, I caught my first trout in a place called

Branch Brook, which is a brook that supplies the water for all of the Kennebunk area, and I see we have before us a bill to include Wells in there, too.

As a younger man in my teens, I was considered a fair golfer, but I have only set one record, and that was in Kennebunk on a golf course called Arundel, one of the two fine courses there, and one day I played 108 holes, carrying my own bag, and since I was a youngster, I did go dancing that evening.

But just let me tell you of a remarkable coincidence that happened last Thursday when this came out in the papers. It was in the coastal papers and I did not receive a copy of it, but Monty gave me his at eleven o'clock in the morning. I had my lunch downtown here at Foster's Restaurant. I had about three quarters of an hour to spend after lunch, so I decided just to walk down the street. At the end of the street, probably most of you don't realize this, but there is a pawn shop. I had not been in a pawn shop for some 30-odd years, since I was in college and had to go into them, but I decided to go in and look around. I thought maybe I could pick up an elephant; I do collect those animals. I didn't find any elephant, so on my way out I asked the proprietor if anybody ever pawned any good men's jewelry and never redeemed it, and he said, "Oh yes." He brought out a tray of rings. There were about 150 rings on the tray, and I just glanced them over and they weren't of any value, but I just happened to catch one that was rather pretty. It was an imitation sapphire with a picture of a building on it and I just picked it out. It had some writing and I couldn't read it. Next to me was a policeman, and I turned to him and I said, "Sir, you are younger than I, perhaps your eyes can read this." He looked at it and he couldn't, so he took a magnifying glass and he looked at it, and he said, "Well, it says Kennebunk." I said, "Kennebunk?" I have never had anything as much of a coincidence as that — in Augusta, Maine, somehow or other made to go into a pawn shop, pick one ring out of the whole thing, just with this small gift of land that I made had been made to the Town of Kennebunk and have that ring say Kennebunk. I think probably rather than consulting a member of this House, I should consult a

brother of a Senator that we have here, Senator Wakine Tanous. I am sure that Doctor Tanous could tell me if this forebodes good or evil for me. Thank you very much. (Applause)

Mr. O'Brien of Portland presented the following Joint Order and moved its passage:

ORDERED, the Senate concurring, that Bill, "An Act to Provide Legislative Review of Administrative Rules and Regulations," House Paper 1845, Legislative Document 2338, be recalled from the legislative files to the House. (H. P. 1914)

The Order was read.

The SPEAKER: This Order requires a two-thirds vote. The Chair will order a vote. All in favor of this matter being recalled from the legislative files will vote yes; those opposed will vote no.

A vote of the House was taken.

Thereupon, Mr. Simpson of Standish requested a roll call vote.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Berwick, Mr. Stillings.

Mr. STILLINGS: Mr. Speaker, Ladies and Gentlemen of the House: I think perhaps since the order which I understood was withdrawn last week and has been re-presented just a few moments ago and is now before the House, since this order involves the State Government Committee and a unanimous "ought not to pass" report of the State Government Committee, I think someone perhaps from that committee should at least explain the position of the committee.

Generally, the feeling of the Committee was that the machinery for doing what the bill suggests already exists in the legislature, that if the legislature or any subcommittee or joint standing committee of the legislature wishes to review the rules and regulations promulgated by any agency or department

of state government, it can do it simply by introducing an order allowing the committee to study the rule-making power or changes in the standards on which rules are based and it may report, of course, to the legislature.

The bill would allow a joint standing committee of this legislature to disapprove rules and then make recommendations to the next legislature. The State Government Committee felt, generally, that this could start any one or several of the hundreds of agencies that have the rule-making power. Because when the legislature was not in session, under the terms of the bill the rules could not be promulgated, could not be put to use, and yet the legislature would not be in session to approve them. It is also highly unlikely that the eight-member joint standing committee which is called for could have the necessary knowledge and expertise to deal with all of the hundreds of subject matter areas that our executive branch agencies do become involved with.

But I think perhaps the most important aspect is the question of constitutionality. When the gentleman from Strong, Mr. Dyar, spoke to us the other day under unanimous consent, he read a portion of the second paragraph of a letter from the Attorney General's Office. I think the second paragraph taken out of context could be misleading, and I would like to read to you the first paragraph, which says:

"In reviewing the above legislative document, it would appear that there is possible constitutional problems because of the encroachment of the legislature upon the executive branch of government in violation of Article III, Section 2 of the Constitution. The legislature having granted authority to a department to issue regulations has placed the making of regulations within the executive branch of government. Having done so, the legislature may not then appoint a committee of the legislature to approve or disapprove such regulations."

Now the Constitution of the State, which I have just mentioned, also says in Article IV, Part Third, Section 1, that the Legislature may not make laws repugnant to the Constitution. Because of this constitutional feature, all acts of the

Legislature are presumed to be constitutional. And this is a presumption of great strength.

Therefore, it would seem to me, and I suggest the other members of the State Committee, that it would be the height of irresponsibility for us to recommend to this legislature that we enact a measure which we know in advance would clearly be unconstitutional.

The SPEAKER: The Chair recognizes the gentleman from Millinocket, Mr. Crommett.

Mr. CROMMETT: Mr. Speaker, Ladies and Gentlemen of the House: I voted with the committee on 17-A. It galls me to think I am so naive to think that I might get some cooperation from the opposition or something else. In all these bills, I have one here creating a bureau that shall have the power to make such reasonable rules and regulations as it may deem proper with respect to all sections of this chapter.

That is written into all bills creating bureaus. It is questionable whether you abrogate your authority to these commissions, yet the various bureaus change their rules and regulations as they see fit, and this legislature has given them the authority to do so. It is rather peculiar.

Basically, the Attorney General questions the rules and regulations issued by the Housing Authority. This order calls for bringing this bill back from the dead files. I would like to see it come back for more discussion, and that is why I am going to vote for the order.

The SPEAKER: The Chair recognizes the gentleman from Bath, Mr. Ross.

Mr. ROSS: Mr. Speaker, Ladies and Gentlemen of the House: I, too, have always been disturbed that these departments can make whatever rules and regulations they deem fit without consulting this legislative body, so I was in favor of this idea. But because of the ramifications that Mr. Stillings has mentioned and because I understand that the Reference of Bills Committee has recently approved for submission to us an entirely new bill which would do this without running afoul of the Constitution, I hope that we do not recall it and that we take our discussion upon the results of the committee's report on this new bill.

The SPEAKER: The Chair recognizes the gentleman from Strong, Mr. Dyar.

Mr. DYAR: Mr. Speaker and Members of the House: This L.D. is my legislation. I have not seen the new bill. I would take issue on the Attorney General's letter. I think the Attorney General does say in that letter that the legislature can legislate to get back power. I will not apologize to the committee for reference of time which I made last week, because I think they do lack time. I think we committed 14 more bills to that committee yesterday.

This piece of legislation I drafted myself in reviewing legislation similar to this in ten other states that have this thing. I hope that you will recall this bill this morning. If there is new legislation coming in, we can compare the two bills.

I have before me a page of the Bangor Daily News of last Thursday, where three various agencies are holding public hearings on changes of rules and regulations. But I will defy any of you to read them, if your eyesight is at all bad because they are pretty small print. And yet the impact of the change of these rules and regulations can be felt by every person living in this state.

I think today's Kennebec Journal also mentions another problem on the front page. If you read about the new land fill regulations, I think this is another 22 page document put out by a department that is holding public hearings at the present time. I would have to assume that if there is 500 people who attended these hearings and 499 disapproved, it would still become a rule and regulation which has the effect of statutory law.

The gentleman from Millinocket, Mr. Crommett, referred to the Maine Housing Authority, which we created as a body. The gentleman from Standish, Mr. Simpson, has spent considerable time drafting up a document of his beliefs and I stand before you today, if we had taken a little more time back in the regular session and set up our own rules and regulations for the Maine Housing Authority to become statutory law at that time and the Maine Housing Authority hadn't had the right to set their own rules and regulations, Mr. Simpson probably would have saved himself a lot of work.

Now, for the past few sessions I have been here, every bill that we have in here

creating a new commission or agency, we delegate the responsibility of this body to that agency. The only thing that bothers me is why somebody in this body 25 years ago didn't have the foresight to put something like this into effect, and we would be in a far better position as it happens in the State of Maine today, we would not be ruled by a bureaucracy, we would be ruled by a legislature which is elected by the people.

The SPEAKER: The Chair recognizes the gentelady from Bath, Mrs. Goodwin.

Mrs. GOODWIN: Mr. Speaker, Ladies and Gentlemen of the House: I, too, am one of those who believes that this bill should be recalled. I am not sure that this bill is the proper vehicle for doing what I would like to see done, but I am very concerned about departments that are circumventing legislative intent. I would hope perhaps that you might let the State Government Committee reconsider this and see if we can come up with something more workable and constitutional.

I would like to just very briefly tell you one reason why I am concerned with the circumvention of legislative intent. As you all remember, last year we were the first legislature in the country to enact a priority social service program, and we created what was known as the Office of Resource Development. As far as I can find out, this office has been circumventing our intent ever since its creation.

Just a few examples; it was said that it was to have nothing to do with the Bureau of Social Welfare other than it would be housed there. Yet the acting manager was also the Director of the Bureau of Social Welfare. We said that the responsibility for the conduct of that part of the priority social service program which relates to the elderly would be the responsibility of services to aging or its successor. The Office of Maine's Elderly has had absolutely no input. We said that of the seven priority social services, four would relate to the elderly; yet the most comprehensive elderly proposal presented to the Office of Resource Development, the transportation proposal by the State Council of Older People was bounced back and forth, back and forth and back and forth and finally rejected, and so have funded

no state-wide transportation proposal for the elderly.

I perhaps would add here that the Maine Committee on Aging had some federal money, a one-shot deal. We are now flying by the seat of our pants or the seat of our skirts, since the chairman is feminine, and we are going to buy busses for Cumberland, York, Aroostook, Washington, Piscataquis, Penobscot, Somerset, Kennebec and Hancock. There would have been no mini-buses had it been up to the Offices of Resource Development. Yet we stated specifically that coordinated services for the elderly and transportation were two of the high priority social services.

Another thing which I have found out, the entire Office of Resource Development has been contracted to the National Association of Social Workers, which means, as far as I can find out, that the top employees in the Office of Resource Development are no longer employees of State Government. I don't think this is what we intended. I think they have used the rules and ranks to circumvent our intent, and this is why I am concerned, so I would ask you to please return this bill to the State Government Committee.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Simpson.

Mr. SIMPSON: Mr. Speaker, Ladies and Gentlemen of the House: I am glad to hear the gentlelady from Bath admit that the executive branch is not administering the laws as we would like to see them administered under legislative intent.

I guess I would stand here and concur with many of the remarks that have been said today. The gentleman from Strong a few minutes ago mentioned a little substance that I have been involved with for about three months, and I agree with him. I agree with the whole philosophy of legislative review or over-view.

One of the problems the legislative council has been having internally, I guess, is just exactly how far we should be going and should not be going as to what is legislative intent, and whether it is being circumvented by department heads and just exactly what the role is we should play once we leave here. With

that in mind, I happen to be one that believes that when we established the council and gave the joint standing committees more of a prerogative and more of an opportunity to work within these areas, that is in situations such as this we can work within.

Now as much as I am in favor of us getting involved in policy as established by the different departments, I really seriously question right now with a committee that is really over burdened with work and with us trying to wind up a special session, whether this order and the recall of this particular bill is necessary. I would question whether we should recall the bill and then give this to a committee to study and to work out all the problems that are within it, when just as the gentleman from Berwick, Mr. Stillings, said, anybody that would like to have a policy study within any department, if that committee would take a vote on it within their committee, bring forth the order, we could either pass the order in both bodies right here right now or sometime during the session or they could direct the Legislative Council to take a view of it or the Legislative Council itself through a letter to me as the chairman, or any one of the members could then undertake the responsibility of assigning this directive to any joint standing committee. I guess it just seems to me that is the better road to go right at the present time rather than recalling this bill and trying to work with it in an already over burdened session. I do believe we do have the tool right now to work with and I believe that is the way we ought to go.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I can understand the majority floor leaders concern about the State Government Committee for being overworked and it certainly is. It has more bills than any committee in this House, but I would just remind the gentleman that there are other committees. And strange as it seems, sometimes bills that should be going to one particular committee end up going to another. So I am not really concerned whether the State Government hears this bill or not; there is Legal

Affairs and there are other committees with very capable people on them that can do it.

Representative Ross, in his remarks on the floor a few moments ago, stated that there apparently is another bill before the Reference of Bills Committee similar to the one that Representative Ross has introduced. And my question is, where is the Reference of Bills Committee going to send that bill and what is the difference between that bill and the bill that Representative Ross introduced a few weeks ago?

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Simpson.

Mr. SIMPSON: Mr. Speaker, Ladies and Gentlemen of the House: I was kind of surprised, to be frank with you, when the gentleman from Bath, Mr. Ross, made his statement, because unless I have been asleep at the switch some place, I have not seen a bill come in that replaces this particular bill.

The SPEAKER: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I was beginning to wonder whether I had been to all the Reference of Bills Committee meetings myself, because I do not recall that bill coming forth. I would be more than happy to take a look at it when it does. I do think, however, that this bill can serve as a vehicle. I don't particularly like to recommit bills, but this may be an approach that we have to take.

A number of legislators have expressed a great deal of concern about the way things have gone on both last week and this week, and we might as well handle the situation now that we have it. I don't particularly like to pass it on to a Legislative Council simply for the sake of study, because of the longer you study things it doesn't necessarily mean you are going to get anything better. I think if it is something new, then I think it has to be studied. But this type of thing is something that has been done in other states and is being done on the federal level in terms of having input from state agencies and also from individuals.

For example, the Oil Allocation Act calls for input on the part of state government, and there has been a great deal

of input along those lines and some of those regulations have been changed. Someone has to have the final say, and I see no reason why it has to be the departments.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker and Members of the House: Everybody in this body knows how friendly the gentleman from Bath and I are, both in the House and outside the House. Frankly, I think he better stop playing with those elephants.

The SPEAKER: The Chair recognizes the gentleman from Orono, Mr. Curtis.

Mr. CURTIS: Mr. Speaker, Ladies and Gentlemen of the House: This legislature has performed some remarkable feats last year in reestablishing the prerogative of the legislature, in particular the prerogative of the standing committees by making the permanent joint standing committees. It was my thinking, at least, when we heard this bill, that the bill itself is an attempt to create a new committee, something we don't have at all, which committee, comprised of three Senators and five Representatives, would provide essentially a veto power over the establishment of rules and regulations by branches of the executive body.

Now all of us have got our pet peeves about the way the bureaucracy is run. I am going to suggest to you today that the most logical thing to do is for the permanent joint standing committees of this legislature to continue to reassert their prerogatives, and to sit in overview during the times when this legislature is not in session and to continually, on a regular basis, review the rules and regulations that are put out.

For example, if the Department of Marine Resources is establishing administrative rules and regulations, who better to understand those rules and regulations than the Joint Committee on Marine Resources of the Maine Legislature?

The bill is an attempt to further dilute and I would suggest make inefficient the prerogatives of the legislature rather than the opposite, and I strongly urge you to vote no.

The SPEAKER: The Chair recognizes

the gentleman from Portland, Mr. O'Brien.

Mr. O'BRIEN: Mr. Speaker and Members of the House: It was not my intent to open a can of worms here this morning. I fully expected that by putting this order in with the three day notice, which I gave last Thursday that this would perhaps slide very quietly under the hammer.

I think the debate on the floor of the House today is definite proof that this bill should be recalled. It should be recalled and reassigned to some committee, perhaps some committee which is not so burdened with work. I am not the least bit concerned with this House remaining in session right through July. I feel we have been called into session and now that we are here let's do the job. Let's not just put it off for a year or for two years. My suggestion is, or my intent was to place this order, bring this bill back, refer it again for committee for study. Perhaps there are many many areas in this bill which need correcting and need more advice or more input, but let's put that input into it now rather than trying to refer things to the 107th, which in turn will bring it back for the 108th. Let's do our job now.

The SPEAKER: The Chair recognizes the gentleman from Strong, Mr. Dyar.

Mr. DYAR: Mr. Speaker and Members of the House: I don't want to prolong this, but I would like to point out that in the 105th the Committee on Health and Institutional Services through a joint order was given a study of which we spent some 40 days of real hard work doing the study at a cost of some \$15,000. I was enlightened to read when a new candidate for Governor, Danny Trask, down at Thomaston brought out the point that the Department of Mental Health and Corrections has spent \$60,000 for a study when they could have bought the study from the State of California for only \$30.

The SPEAKER: The Chair recognizes the gentleman from Berwick, Mr. Stillings.

Mr. STILLINGS: Mr. Speaker, Ladies and Gentlemen of the House: I might attempt to clarify the suggestion that the gentleman from Bath, Mr. Ross, made, that there was a bill that has been admitted and will be pending before this legislature as soon as its writing is com-

pleted that might relate to this particular problem.

The bill that Mr. Ross made reference to is one that would establish a program review and evaluation division within the Department of Audit. The Department of Audit is a staff agency of this legislature and the bill would enable them to do a performance audit in addition to their already statutory function of performing fiscal audits. And our five o'clock actually our quarter past six session last evening, Mr. Ross suggested that perhaps the review of rules and regulations might fall within the province of this agency. I am sure that it would and perhaps it could be included in this particular bill to make it more specific. However, I still feel that we have the machinery to do what Mr. Dyar wants to do right now, as our majority leader has suggested, that this legislature may, on its own motion, look at the rules of any agency of state government and make recommendations to change them if they think it is necessary.

The SPEAKER: The Chair recognizes the gentleman from Millinocket, Mr. Crommett.

Mr. CROMMETT: Mr. Speaker, Ladies and Gentlemen of the House: Last Saturday, I was in the Town of Lincoln and a gentleman told me this story. As near as I can recall, he owned some land in Aroostook, the Town of Macwahoc, and sold some lots, was planning to develop these lots. He came to Augusta, met with the officials, LURC, and they suggested that he go back, draw up a plan of the lots that he has sold and the instructions that he was told to do, he did. Then he came back to Augusta and evidently the rules had been changed, so he was quite disturbed. He had to do things all over again.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I question whether the bill that Mr. Stillings says is being written would be the proper vehicle. I do not feel that the Department of Audit should be involved in anything but fiscal matters. It should not attempt, as it has been doing, to get into the management area of departments. I don't think it ought to be given the job of review or

overview of rules and regulations. Let's restrict it to fiscal matters and let the legislature, the Attorney General or someone else get into the other areas.

The SPEAKER: The Chair recognizes the gentlelady from Union, Mrs. McCormick.

Mrs. McCORMICK: Mr. Speaker and Members of the House: I would just like to explain one point when our committee during the 105th asked a department for rules and regulations that we would like to have gone over pertaining to nursing homes. We had a lot of bills at that time and they also stated the rules and regulations of that department. At that time there were four different rules and regulations out, there was the fourth, fifth and sixth drafts, I believe it was. Nobody knew which draft they were working on. The fourth had been approved or the fifth had been approved and the sixth hadn't been, but the sixth was what they were working on, and to this date I don't believe anyone on that committee has ever seen one draft, let alone the others. That department was so confused and they had so many drafts going that they didn't know what they were doing, so they couldn't very well send them to us. Although they were operating on the sixth which had not been approved at that time.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Portland, Mr. O'Brien, that Joint Order, House Paper 1914, to recall from the legislative files Bill "An Act to Provide Legislative Review of Administrative Rules and Regulations," House Paper 1845, L.D. 2338, receive passage. This requires a two-thirds vote. All in favor of this Bill being recalled from the legislative files will vote yes; those opposed will vote no.

ROLL CALL

YEA — Albert, Berry, G. W.; Berry, P. P.; Berube, Binnette, Bither, Boudreau, Carey, Carrier, Carter, Chick, Chonko, Clark, Connolly, Cote, Cottrell, Cressey, Crommett, Curran, Dam, Dow, Drigotas, Dudley, Dunleavy, Dyar, Emery, D. F.; Evans, Farley, Farrington, Faucher, Fecteau, Fraser, Gauthier, Genest, Good, Goodwin, H.; Goodwin, K.; Greenlaw, Hancock, Her- rick, Hobbins, Hunter, Jackson, Jacques, Jalbert, Kauffman, Kelleher, Kel-

ley, Keyte, Kilroy, LaCharite, Lawry, LeBlanc, Lewis, E.; Lynch, Martin, Maxwell, McCormick, McHenry, McMahon, McNally, McTeague, Mills, Morin, L.; Morin, V.; Mulkern, Murray, Norris, O'Brien, Palmer, Parks, Peterson, Pontbriand, Ricker, Rolde, Shute, Silverman, Smith, S.; Sproul, Talbot, Tanguay, Theriault, Tierney, Trask, Twitchell, Walker, Webber, Wheeler, White, Whitzell, The Speaker.

NAY — Ault, Baker, Birt, Bragdon, Brawn, Briggs, Brown, Cameron, Churchill, Cooney, Curtis, T. S., Jr.; Davis, Deshaies, Donaghy, Dunn, Farnham, Finemore, Flynn, Gahagan, Garsoe, Hoffses, Huber, Immonen, Kelley, R. P.; Lewis, J.; Littlefield, MacLeod, Maddox, Mahany, McKernan, Merrill, Morton, Murchison, Najarian, Perkins, Pratt, Rollins, Ross, Shaw, Simpson, L. E.; Snowe, Soulas, Stillings, Strout, Susi, Trumbull, Tyndale, Willard, Wood, M. E.

ABSENT — Bunker, Bustin, Conley, Ferris, Hamblen, Haskell, Knight, La-Pointe, Santoro, Sheltra, Smith, D. M.

Yes, 91; No, 49; Absent, 11.

The SPEAKER: Ninety-one having voted in the affirmative and forty-nine in the negative, with eleven being absent, the Order fails passage.

Consent Calendar

First Day

(H. P. 1800) (L. D. 2281) Bill "An Act Permitting the Supreme Judicial Court to Modify the Rules of Evidence" — Committee on Judiciary reporting "Ought to pass"

No objection having been noted, was assigned to the Consent Calendar's Second Day list.

Passed to Be Engrossed

Bill "An Act Relating to Exemption of Certain Plants under Oil Burner Men's Licensing Law" (S. P. 870) (L. D. 2421) Emergency.

Was reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed and sent to the Senate.

Bill "An Act to Clarify Certain Municipal Laws" (H. P. 1920) (L. D. 2452) Emergency

Was reported by the Committee on

Bills in the Second Reading and read the second time.

Mr. Connolly of Portland offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-656) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Emery.

Mr. EMERY: Mr. Speaker and Members of the House: As Chairman of the Legal Affairs Committee, I would very simply like to say that I am in favor of the amendment just offered and I move for its passage.

Thereupon House Amendment "A" was adopted.

The SPEAKER: The Chair recognizes the gentleman from Kennebunk Mr. McMahon.

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: I am preparing an amendment for this bill and would appreciate it if someone would table it for one day.

Thereupon, on motion of Mr. Farley of Biddeford, tabled pending passage to be engrossed and tomorrow assigned.

Passed to Be Enacted Emergency Measure

An Act to Permit Counties to Accept and Expend State and Federal Grants (S. P. 708) (L. D. 2120) (C. "A" S-318)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of same and 3 against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act Clarifying Sprinkler System Requirements in Boarding Homes (H. P. 1695) (L. D. 2088) (C. "A" H-643)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of same and 2 against, and accordingly the Bill was passed to be enacted,

signed by the Speaker and sent to the Senate.

Enactor Tabled and Assigned

An Act Relating to Liability of Natural Gas Distributors (S. P. 710) (L. D. 2122) (S. "A" S-325) (H. "A" H-646)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

(On motion of Mrs. White of Guilford, tabled pending passage to be enacted and tomorrow assigned.)

Passed to Be Enacted

An Act Relating to Safety Glazing (H. P. 1705) (L. D. 2098)

An Act to Provide Inspection Fees for Certain Herring Products (H. P. 1763) (L. D. 2231)

An Act to Clarify the Law Relating to Fishery Inspection (H. P. 1747) (L. D. 2206)

An Act Relating to the Regulation and Control of Dogs (H. P. 1771) (L. D. 2243) (C. "A" H-644)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

Orders of the Day

The Chair laid before the House the first tabled and today assigned matter:

Bill "An Act to Regulate the Size of Shot in Shotgun Shells for Waterfowl Hunting" (H. P. 1829) (L. D. 2319)

Tabled—January 25, by Mr. Kelley of Southport.

Pending—Motion of Mr. Good of Westfield that the House accept the Majority Report "Ought to pass" in New Draft (H. P. 1915) (L. D. 2444)

The SPEAKER: The Chair recognizes the gentleman from Southport, Mr. Kelley.

Mr. KELLEY: Mr. Speaker, there is an amendment being prepared for this bill, and I hope that we will accept the "ought to pass" report, and I will offer the amendment on second reading tomorrow. This will clarify a problem in the bill.

Thereupon, the Majority "Ought to pass" Report was accepted, the New Draft read once and assigned for second reading tomorrow.

The Chair laid before the House the second tabled and today assigned matter:

Resolve to Reimburse A. D. Soucy Co., of Fort Kent for Redemption of Cigarette Stamps (H. P. 1922)

Tabled—January 28, by Mr. Simpson of Standish.

Pending—Motion by Mr. Finemore of Bridgewater that the House reconsider its action whereby the Resolve was referred to the Committee on Legal Affairs.

Thereupon, the House reconsidered its action whereby this Bill was referred to the Committee on Legal Affairs.

On motion of Mr. Finemore of Bridgewater, referred to the Committee on Taxation, ordered printed and sent up for concurrence. (Later reconsidered.)

The Chair laid before the House the third tabled and today assigned matter:

Resolve to Reimburse Reid's Confectionery Company of Houlton for Redemption of Cigarette Stamps (H. P. 1923)

Tabled—January 28, by Mr. Simpson of Standish.

Pending—Motion by Mr. Finemore of Bridgewater that the House reconsider its action whereby the Resolve was referred to the Committee on Legal Affairs.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Simpson.

Mr. SIMPSON: Mr. Speaker, Ladies and Gentlemen of the House: Last night we went back and looked over the last two sessions to find out just exactly where these bills had gone to. We did find two or three bills that involved collection of cigarette tax due to fires or loss of some type, and they always have gone to Legal Affairs. It is our feeling that it still should stay in Legal Affairs. We have been trying to work with this Committee during the course of the summer. In fact we have a bill in here right now that would try to solve some of the problems we are having on claim bills that are coming before us. They have had something like 45 bills. They have turned out 41 of these bills, and I think

right now I would like to see it stay there and I would like to ask for a division on the motion.

The SPEAKER: The Chair recognizes the gentleman from Bridgewater, Mr. Finemore.

Mr. FINEMORE: Mr. Speaker and Members of the House: I am perfectly willing for it to go to Legal Affairs, because we have got plenty to do. I withdraw my motion, and when the other one comes back up again, if he would like to reconsider, I will withdraw it again. In so doing, I think he has done a very poor job of checking them. I have been here a lot longer than Mr. Simpson has been here, and I have never yet seen one come in for cigarette tax. If it has ever gone anywhere, it is Taxation. But I will withdraw my motion on item three to reimburse Reid's Confectionery —

The SPEAKER: Under the rules, a reconsideration motion may not be withdrawn. The gentleman may vote against his own motion.

Mr. FINEMORE: Thank you. I hope you will vote against my motion.

The SPEAKER: The pending question is on the motion of the gentleman from Bridgewater, Mr. Finemore, that the House reconsider its action whereby this Bill was referred to the Committee on Legal Affairs. All in favor of that motion will say yes; those opposed will say no.

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

On motion of Mr. Martin of Eagle Lake, the House reconsidered its action of earlier in the day whereby Resolve to Reimburse A. D. Soucy Co. of Fort Kent for Redemption of Cigarette Stamps, House Paper 1922, was referred to the Committee on Taxation.

On further motion of the same gentleman, referred to the Committee on Legal Affairs, ordered printed and sent up for concurrence.

(Off Record Remarks)

On motion of Mr. Simpson of Standish, Adjourned until ten o'clock tomorrow morning.