

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Sixth

Legislature

OF THE

STATE OF MAINE

1973

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Thursday, January 11, 1973
Senate called to order by the President.

Prayer by the Rev. Douglas M. Morrill of Augusta.

Reading of the Journal of yesterday.

Joint Order

Out of Order and Under Suspension of the Rules:

On motion by Mr. Sewall of Penobscot,

ORDERED, the House concurring, that when the House and Senate Adjourn, they adjourn to Tuesday, January 16, at 10 o'clock in the morning. (S. P. 60)

Which was Read and Passed.

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

Joint Order

Out of Order and under suspension of the rules:

On motion by Mr. Tanous of Penobscot,

ORDERED, the House concurring, that a Joint Special Committee on No-Fault Insurance, fully representative of the Citizens of the State of Maine, consisting of 10 members, 3 of whom shall be Members of the Senate appointed by the President of the Senate and 7 of whom shall be Members of the House appointed by the Speaker of the House, is hereby created and appointed for the purpose of reviewing legislation introduced in the 106th Legislature in connection with No-Fault Automobile Insurance. The committee is not only authorized to review all legislation introduced in connection with No-Fault Insurance but is directed to study and report on the present legal status of automobile insurance; the legal rights and options available to the citizens of Maine under compulsory insurance plans and alternative programs which may be in the best interest of the public and to report to the Legislature its views and recommendations in regard to what action, if any, the Legislature should take in regard to automobile insurance with particular reference to the No-Fault concept and to draft legislation to

implement its recommendations; and be it further

ORDERED, that the committee shall carry out the purpose of this Order with the assistance of the Attorney General's Department, the Director of Legislative Research, the Legislative Finance Officer and any other state department, board, commission, authority or agency from which information may be necessary to carry out and expedite the committee's duties. Furthermore, said committee may employ such actuaries, assistants, clerks, attorneys, agents and advisors as it shall deem necessary and set the conditions of their employment with the approval of the President of the Senate and the Speaker of the House. Should it become necessary for the committee to meet when the Legislature is not in session, the committee members shall be reimbursed for their actual expenses in service to the committee, with the exception of mileage which shall be paid at the same rate received by state employees. The committee is authorized to conduct public hearings at such times, places and in such manner as it deems appropriate to fulfill its duties; and be it further

ORDERED, that there is allocated to the committee from the Legislative Account the sum of \$10,000 to carry out the purposes of this Order and that the committee shall act as expeditiously as possible and shall report to the 106th Legislature either during the regular or special session in such manner as the committee deems appropriate.

Which was Read.

The President: The Chair recognizes the Senator from Cumberland, Senator Richardson.

Mr. RICHARDSON: Mr. President and Members of the Senate: Prior to taking action on the order presented by Senator Tanous, I would like to ask to be given permission to abstain from voting on this and all other "no-fault" legislation, in accordance with the provisions of Senate Rule 24. There will be during the course of this legislature two or more legislative documents dealing with the so-called "no fault" concept of

automobile liability insurance coverage.

While I would personally favor a "no-fault" bill if it in fact would reduce the cost of automobile liability insurance to Maine consumers, would in fact reduce court congestion, provide more first party coverage, protect individual rights guaranteed by the Constitution of Maine and the United States, I feel that my professional legislative obligations indicate that I should not vote at any stage on any of the "no-fault" legislation that would be considered by this session of the legislature.

Having given this a great deal of thought, and having reviewed the Code of Professional Responsibility which governs the conduct of attorneys, and having reviewed my own practice, I believe it is my duty as a lawyer to avoid even the appearance of a conflict of interest. As a legislator, I believe the public confidence in the legislative process is essential to the survival of this institution. I believe that I should be excused from voting on all "no fault" proposals that come before the Senate because as an attorney my practice is almost exclusively limited to the defense of civil cases and, almost without exception, I do so at the request of automobile liability insurance companies. Thus, even though I would favor a "no fault" plan which would in fact do what its proponents claim, any vote of mine would be subject to question and, in order to avoid even the appearance of professional or legislative conflict, I request to be excused from voting on this and all other "no-fault" legislation in accordance with the provisions of Senate Rule 24.

By requesting to be excused, I certainly don't mean to suggest or imply that other lawyers who are members of this legislature have the same potential appearance of conflict that I do, because such is simply not the case. My practice is limited to a unique degree to the defense of automobile liability cases at the request of insurance companies. Any "no-fault" legislation which was before us for consideration would involve in my case a direct financial interest in

the outcome of the legislation. I do not believe that other lawyers both in the Senate and the other body specialize in this field to the degree that I do, therefore, I don't mean to either suggest or imply that they should abstain from voting.

Mr. President, again I request to be excused from voting under the provisions of Senate Rule 24.

The PRESIDENT: Is it the pleasure of the Senate that the Senator from Cumberland, Senator Richardson, be excused from voting on "no-fault" insurance in accordance with his wishes under Senate Rule 24?

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President, I would pose a question to the Chair. Does the Chair rule on this request or do we vote on it?

The PRESIDENT: It is up to the Senate. The Senator from Cumberland, Senator Richardson, has requested that under Senate Rule 24 he be allowed to be excused from voting on "no-fault" insurance by the Senate. The question is before the Senate.

The Chair recognizes the same Senator.

Mr. TANOUS: Mr. President and Members of the Senate: While I can see the predicament that my Brother, Senator Richardson from Cumberland, is involved in, it would appear to me that at one time or another each and every one of us in this particular body or in the other body are faced to some degree with this particular question; all of us are. Senator Shute from Franklin, for instance, has introduced a bill on privileged communication for newsmen. Now, he himself is a newsmen, and will he have to abstain from voting on that particular bill because he will be directly affected by passage of such a document? Of all the laws that we enact in this legislature, we are all affected by the results of enactment of any such laws.

My feeling in reading the statute — we do have statutory language and not only our own rules to be guided by — we have in Title 3, Section 382, language to guide us as legislators in voting on issues

— and my interpretation and the interpretation of other legal individuals is that we feel, even though the legislation directly affects us as a group of citizens, that it does not personally affect us. Legislation, in my opinion, must be directed to an individual in this body before he can abstain. It should not only directly involve him, but personally involve him. The legislation should personally involve the individual who wishes to abstain; not only directly.

I feel when legislation of this nature is introduced, where it affects not only me to a degree but will affect every lawyer to a degree, where it will affect insurance people to a degree, where it will affect every single citizen of the state who owns a vehicle, and we all do, so are we all to ask to be allowed to abstain from voting on this issue, or any other issue that is presented before us?

Now, is the determining factor the percentage of our income that we gain? Like in this particular case, if 98 per cent of his income is derived from insurance companies, and his income only amounts to \$10,000 a year, so that his income from insurance companies — and this is just an example — would be in the area of \$9,800 a year as income derived as insurance defense counsel. Yet, if my income is \$100,000 a year, and it only represents 20 per cent of my practice, when I get \$20,000 from practicing in this field, while he only gets \$9,800. So is it the dollars and cents that matter, or the percentage? I disagree with Senator Richardson from Cumberland. I personally don't feel he should be given permission to abstain from voting on the "no-fault" bills. I feel that he and the rest of us should face the issue. Thank you.

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

Thereupon, on motion by Mr. Berry of Cumberland, tabled until later in today's session, pending Passage.

Order

Out of Order and Under Suspension of the Rules:

On motion by Mrs. Cummings of Penobscot,

ORDERED, that a message be sent to the House of Representatives proposing a Convention of both branches of the Legislature to be held forthwith in the Hall of the House for the purpose of administering to the Honorables: Richard W. Logan, Deane A. Durgin, Howard W. Mayo, Harvey Johnson, Clyde A. Hichborn, Herald J. Beckett and Harold G. Clark the oaths required by the Constitution to qualify them to enter upon the discharge of their official duties as Executive Councilors; and be it further

ORDERED, that a message be sent to the House of Representatives proposing a Convention of both branches of the Legislature in the Hall of the House for the purpose of extending to His Excellency, Governor Kenneth M. Curtis, an invitation to attend the Convention and make such communication as pleases him.

Which was Read and Passed.

At the request of the President, Mr. Berry of Cumberland, delivered the message and subsequently reported that he had performed the duty assigned to him.

The Senate then retired to the Hall of the House of Representatives where a Joint Convention was formed.

(For proceedings of Joint Convention, see House Report)

In Senate

The Senate was called to order by the President.

Papers from the House House Papers

Bill, "An Act Providing for a No-fault Automobile Liability Insurance Law." (H. P. 1) (L. D. 1)

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

On motion by Mr. Berry of Cumberland, tabled until later in today's session, pending Reference to Committee.

Senate Papers Appropriations and Financial Affairs

Mr. Sewall of Penobscot presented,

Resolve, Reimbursing Certain Municipalities on Account of Property Tax Exemptions of Veterans. (S. P. 58)

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

Sent down for concurrence.

Marine Resources

Mr. Schulten of Sagadahoc presented, Bill, "An Act Relating to Pollution Control in Discharge in Tidal Waters." (S. P. 54)

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

Sent down for concurrence.

State Government

Mr. Schulten of Sagadahoc presented Bill, "An Act Relating to Publishing Rules and Regulations of the Parks and Recreation Department." (S. P. 55)

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

Sent down for concurrence.

Mr. Speers of Kennebec presented Bill, "An Act to Establish a Bureau of Property Taxation Within the Department of Finance and Administration." (S. P. 56)

On motion by Mr. Speers of Kennebec, tabled and tomorrow assigned, pending Reference to Committee.

Taxation

Mr. Schulten of Sagadahoc presented Resolve, Authorizing the State Tax Assessor to Convey by Sale the Interest of the State in Certain Lands in the Unorganized Territory. (S. P. 57)

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

Sent down for concurrence.

On motion by Mr. Berry of Cumberland, the Senate voted to reconsider its prior action whereby H. P. 86, Order relating to Joint Special Committee on Public Lands, received Passage in concurrence.

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

Senate Amendment "A", Filing No. S-1, was Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. BERRY: Mr. President and Members of the Senate: This amendment is merely to clarify the responsibility of the committee to in part function, as far as orders are concerned, as a joint standing legislative committee.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "A"?

Thereupon, Senate Amendment "A" was Adopted and the Order, as Amended, received Passage in non-concurrence.

Sent down for concurrence.

Committee Reports Senate

Mr. Roberts for the Committee on Legal Affairs on Bill, "An Act Authorizing Use of the Name Friends of Maine Medical Center." (S. P. 6) (L. D. 33)

Reported that the same Ought to Pass.

Mr. Joly for the Committee on Legal Affairs on Bill, "An Act Changing Name of Dance, Incorporated." (S. P. 8) (L. D. 61)

Reported that the same Ought to Pass.

Mr. Aldrich for the Committee on Legal Affairs on Bill, "An Act Changing Name of Family Planning Association of the Pine Tree State, Inc." (S. P. 9) (L. D. 62)

Reported that the same Ought to Pass.

Which reports were Read and Accepted, the Bills Read Once and Tomorrow Assigned for Second Reading.

The PRESIDENT: The Chair would like to note that this is the fifth legislative day and it is gratifying to see three committee reports from the Committee on Legal Affairs on our calendar, which means they have held their public hearings, had their executive sessions, and reported these bills out. The Chair would like to commend the Senator from Kennebec, Senator Joly, and his commit-

tee for reporting so promptly and getting started up in business so early. (Applause)

Orders of the Day

The President laid before the Senate the following tabled and specially assigned matter:

Bill, "An Act to Provide for Full-time Elected District Attorneys." (H. P. 69) (L. D. 82)

Tabled — January 10, 1973 by Senator Brennan of Cumberland.

Pending — Motion of Senator Huber of Knox to refer to Committee on State Government in non-concurrence. (In the House referred to the Committee on Judiciary)

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

Mr. BRENNAN: Mr. President and Members of the Senate: I rise in the spirit of harmony that has characterized this session to date and, in effect, what I want to do is support the Reference of Bills Committee's report on this. I am sure you are aware that is made up of the President of the Senate and the Majority Leader. Of course, the President of the Senate has had five terms, I believe, in this legislature, and the distinguished Majority Leader, the gentleman from Cumberland, Senator Berry, has served some six terms, and as part of that committee they voted to refer this to the Committee on Judiciary. I think both of these people have very good judgment in this area, and I want to support that judgment.

I think that judgment really is backed by the great weight of tradition that bills dealing with the courts and the prosecution system generally go before Judiciary, and I think that makes a lot of sense, but I think we are dealing here with something that very vitally affects our legal system. So, on the basis of that, I would urge the Senate to oppose the motion to refer this to State Government, and I would offer a motion to refer it to the Committee on Judiciary, again, in a non-partisan way, supporting the President of the Senate and the distinguished Majority Leader, Senator Berry.

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

Mr. BERRY: Mr. President and Members of the Senate: One of the many liabilities of being presiding officer of this distinguished body is that you are frequently in a position where you would like to say something but you are prevented from doing it because you are up there with the gavel. I feel, from my close association with the President of the Senate, that I can say that he made a mistake in the Reference of Bills Committee, and I will say, in the spirit of amity that Senator Brennan of Cumberland has so well put, that I too made a mistake in the Reference of Bills Committee, and I would very strongly support the motion of Senator Huber from Knox.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President and Members of the Senate: Just as a point of information, I understand that there is a bill that will be presented dealing with public defenders. Public defender bills have traditionally gone to Judiciary, and it is my feeling that whatever committee handles the full-time prosecutor bill should also handle the public defender system bill. They are correlated and I think the same committee should handle both in the sake of perhaps harmony and continuity on the subject matter. For that reason, I am supporting Senator Brennan from Cumberland. Thank you.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Berry.

Thereupon, on motion by Mr. Berry of Cumberland, a division was had. 21 Senators having voted in the affirmative, and 12 Senators having voted in the negative, the Bill was referred to the Committee on State Government in non-concurrence and Ordered Printed.

Sent down for concurrence.

The President laid before the Senate the following matter tabled earlier in today's session by Mr. Berry of Cumberland:

Senate Paper 59, Joint Order relating to Joint Special Committee on No-Fault Insurance.

Pending — Passage.

The PRESIDENT: The pending question before the Senate is the request of the Senator from Cumberland, Senator Richardson, that he be excused from voting on any matters concerning "no-fault" insurance.

The Chair recognizes the Senator from Cumberland, Senator Richardson.

Mr. RICHARDSON: Mr. President and Members of the Senate: I certainly don't wish to prolong the debate, but I believe that Canon 9 of the Code of Professional Responsibility very, very clearly spells out my obligations. The subsection to which I have reference provides that every lawyer owes a solemn duty to uphold the integrity and honor of his profession, and concludes with the statement "and to strive to avoid not only professional impropriety but also the appearance of impropriety."

I feel very strongly that I do have a situation here involving the appearance of a conflict of interest. I don't believe that any other lawyer member of the legislature has a practice which is in any way similar to mine in terms of either degree, as was pointed out by Senator Tanous, or perhaps in the total amount of income. I don't want to quarrel with my good friend, Senator Tanous, about his income level, which he has indicated might possibly be \$100,000, but we are not talking about those kind of marbles in my practice certainly.

I do respectfully again request that I be permitted to abstain from voting on this and other "no-fault" legislation.

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

Mr. BRENNAN: Mr. President and Members of the Senate: Very briefly, I think inherent in a citizen legislature is the fact that there are probably conflicts oozing out of every pore. I would like to think about this a little bit further, and I would hope someone would table this until the next legislative day.

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

Mr. BERRY: Mr. President and Members of the Senate: I would oppose a tabling motion. This is an issue that we have got to grapple with and this is the time and place to do it.

The PRESIDENT: Is the Senate ready for the question? Is it the pleasure of the Senate that the Senator from Cumberland, Senator Richardson be excused from voting in accordance with his request under Senate Rule 24? It is a vote.

The pending question before the Senate is the passage of Senate Paper 59, Joint Order relating to Joint Special Committee on No-Fault Insurance. Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: I had intended to defer to the Senator from Penobscot, Senator Tanous, to explain to us what he proposes here. In the absence of that explanation, I would explain to the Senate my interpretation of the order.

The order sets up a new concept. It provides while the legislature is in session that a standing committee shall have operating funds, which to my knowledge hasn't gone on before. It appears to duplicate the action of Senator Tanous's interim committee that studied the "no-fault" concept, because the words of this order say that the committee shall recommend what action, if any, the legislature should take in regard to automobile insurance, with particular reference to the "no-fault" concept. Now, I am sure it is everybody's fervent hope that when Senator Tanous presents to the legislature the results of his interim study committee on "no-fault" that we will be properly guided and know what to do on this very important question.

Let me emphasize to the members of the Senate that we are talking about a very important consumer bill. We have heard a lot about consumer protection, and we are going to have an opportunity to debate it and make our

mind up on it. It is a very complex subject, and this is why there was the committee appointed that Senator Tanous chaired.

In addition to the problems with the order itself that I have enumerated to you, I am extremely reluctant that we avoid any appearance — Senator Richardson has used that word from the Canons of the American Bar Association, and you read it in yesterday's report from your Legislative Ethics Committee, the word "appearance" of conflict of interest. And I would refer you to yesterday's journal to read what was put in there, after an awful lot of thought, on conflict of interest and appearance of conflict of interest. Now, on this subject of "no-fault" insurance, we have heard that there are possible conflicts of interest between the trial attorneys and the insurance agents.

I disagree with Senator Richardson of Cumberland that he has a conflict of interest to the extent that he indicates. I don't honestly feel he really has a conflict of interest, but I support his right as a member of this body to abstain from voting. I know him well enough to know that he is going to exercise his judgment the way he should. I supported his position in my vote.

I don't have quite the suremindedness of the position, or the possible position, of some attorneys on the other side of the matter. I think the trial attorneys here, the people who represent the people claiming money, the plaintiff's attorney, I think there is an appearance of a conflict of interest here. I, along with some other members of this body, had — I can't think of a proper word for it — but I had the experience during the 102nd Legislature of engaging in debate on what we called then the "lawyers' bills", and I have an unfortunate habit of referring back to them in my debate in this body. At that time it was brought out quite plainly that there is a financial interest in certain members of the legal fraternity in bills of this type. By that, I mean "no-fault" insurance bills as they get into the court system.

All right, now what is the upshot of what I am saying to you about the appearance of conflict of interest? I say that this order and all bills dealing with "no-fault" insurance should be handled by this legislature with absolutely no appearance of a conflict of interest. Now, if this is not done, we are going to destroy the public confidence in the judgment of the legislature in this very important area, again, consumer protection.

Now, you are going to find as you listen to the debate and study these "no-fault" bills, and there will be several of them presented, that they are extremely confusing. The so-called trial lawyers' group is going to present a "no-fault" insurance bill. My metaphor in this case is that it is something like the fox guarding the chicken coop, in my opinion.

Now, we are going to have more of this, of course, but I have intruded on your patience because I think right now the question is on appearance of conflict of interest. Query: Why are we deviating from the established practice of sending insurance bills to the Business Legislation Committee? That will be one question. Now, I am sure that an answer to that would be that this is a very deep judicial matter and there are legal principles and basic concepts involved here that only the learned members of the Judiciary Committee can answer. And I would say balderdash to that one. I think that to deviate from the established practice of referring insurance matters to the same committee, the public is going to say "Why did you do it?" I don't think we should.

The insurance agents themselves do not have the apparent conflict of interest that the trial attorneys do. If you are an insurance agent and your premium goes up or down, or a case is settled one way or the other in court, you have nothing to do with it. All you want to do is get the premium paid by your customers. You are not going to benefit or lose whether "no-fault" goes to the Judiciary Committee or goes to the Business Legislation Committee. So I don't see the appearance of con-

flict of interest by sending this to the Business Legislation Committee.

I am not going to take any more of your time, but I would strongly urge that you vote against this. I am going to move the indefinite postponement of this order, and I will ask for a roll call.

The PRESIDENT: The Senator from Cumberland, Senator Berry, moves that Senate Paper 59 be indefinitely postponed. A roll call has been requested.

The Chair recognizes the Senator from Penobscot Senator Tanous.

Mr. TANOUS: Mr. President and Members of the Senate: I am sorry that I didn't get the floor first to explain the order to you, as Senator Berry from Cumberland wished I had, I guess. I had assumed that all of you had read the bill, and I did speak with 26 or 27 of you, explaining my order to you individually. But if it is the wish of Senator Berry of Cumberland, I don't mind standing up and explaining it to you again.

I agree with much of what Senator Berry says. Actually, if you analyze most of his statements, his statements would support the passing of my order. Many of the statements that he has made here in reference to the order would support passage of the order. If we have to avoid the appearances of conflict or suspicion upon the legislature, then let us send the "no-fault" insurance study to one select committee to study all of the legislation to be presented at this legislative session.

I agree, I don't want to see this bill go to Judiciary. You have five lawyers out of 13 members. I feel the percentage is too great, as far as getting a real independent appraisal of these bills, with five lawyers involved. I also feel the same way about sending a bill to Business Legislation, for somewhat the same reason, as I understand there are four insurance agents or insurance connected individuals on that committee. So that percentage is almost as great as the Judiciary Committee as far as perhaps conflict of interest is concerned.

Now, Senator Berry of Cumberland seems to think that the

insurance agents for insurance companies have no beneficial interest in "no-fault". I disagree with him. I have yet to see an insurance company or any company in business to lose money. So certainly they are interested in "no-fault" legislation.

I would like to see, madam and gentlemen, the President of this body and the Speaker of the House appoint a joint select committee from as many varied backgrounds as possible, so that the citizens of this state will have equal representation on a committee involving a very important subject matter that is going to affect every single citizen who owns a car in this state for the rest of their lives.

If that isn't important, then nothing else is going to be important before us, because 90 percent of the population of this state is interested in the outcome of this legislation, and it is important that we guard ourselves to see that this matter is deliberated and studied by a committee which represents a broad segment of our state. Let's have a committee with the legal profession represented, the insurance companies represented, the working man, the housewife. Let's have equal representation for everybody.

Now, sure, we have had a study committee. We have worked a year and a half on this, eighteen months, and I have traveled all over New England and as far as New Orleans studying "no-fault" insurance. But when you talk about a study committee bringing back a report to the legislature, and that in itself can be read and understood by all of us so we can vote based on that report, I disagree with this conclusion, because each and every one of us are going to want to study "no-fault" on our own. We are not going to take the word of a committee on this. But if we do amongst our own have a committee that is going to study this with a broad representation from as many areas of our citizenry as possible, then I think we will have much more credence as far as the committee is concerned.

Now, the commission that I had, unfortunately — they are all

wonderful people on this commission, believe me, they are all wonderful people on the commission that I have been on for a year and a half — unfortunately, there were three appointing agents to this commission. The President of this body was one, the Speaker of the House was another, and the Insurance Commissioner for the State of Maine was the third appointing agent for that special commission that I am on. I am sure that our President did not consult the Speaker before he made his appointments. I am sure that neither the President nor the Speaker consulted Mr. Hogerty before he made his appointments. Again I mention that every member on this commission that I have been working with is a very capable, honorable individual. Unfortunately, the State of Maine was not represented on this commission by a broad segment from diverse backgrounds. The commission is made up of nine voting members: one lawyer and eight insurance people. It is unfortunate it turned out like that, it really is. I am sure that each and every member of that commission studied this as impartially as possible but, as an attorney, I know that when I get together with ten lawyers, we are of one mind; we are trained in that area. And if you place ten insurance people together, you certainly don't get the housewife's point of view, you don't get the laboring man's point of view, nor do you get the businessman's point of view, or any other segment of our state.

So I feel that the answer, and to remove any possible suspicion from this legislature, is to send this bill to a special select committee. Hopefully, our President and the Speaker will get together and put the representation on this committee as I have requested that is fully representative of the citizens of the State of Maine.

Now, this is nothing new. Senator Berry of Cumberland seems to indicate that this is a new move, but it isn't. We have just done it on the public lots, and we have given that committee \$10,000. Now, we have standing committees in the legislature to which we could

have forwarded these public lots bills. We have done it on apportionment and we have done it in other areas in the past, so this is not an unusual move.

Furthermore, the reason that I have requested money to be allocated to this committee on this study is important. The reason it is important is because this committee is going to need technical help. If you have a legislative committee studying "no-fault" and intend that they bring back a bill — granted, my feeling is that no bill is going to be presented to a committee and come back intact as presented to the committee. There is going to have to be many changes made in this particular bill. They may come up with a whole new concept of "no-fault". And I favor "no-fault", incidentally, as Senator Richardson expressed his feelings this morning, I do too. But you are going to need some expertise on this committee. You are going to need some money to be able to hire this expertise. And if you send a bill of this type to a committee without assistance, then you are going to end up having either the insurance industry writing the bill or the lawyers. We have talked about giving ourselves legislative help so we won't be dependent upon the third body to do our drafting. This is in that same spirit. Let's give this committee the funds to work with so they can bring back to us a bill that is drawn by the members of this legislature and not our third body, the lobbyists, the insurance industry, or the lawyers. It is important that you give them funds so that they can hire competent help.

I am sure that no one of you will want to vote on a "no-fault" bill until you know what this bill is going to cost the citizens, the people that you represent. I would never contemplate voting on a "no-fault" bill unless I knew whether the premiums were going to go up or whether the premiums were going to go down. And to find this out, as strange as it may seem, will cost \$5,000. To send a proposed bill to an actuary to bring back cost figures on it will cost us \$5,000. So there are costs involved.

And if we are to be truly representative of the people we represent, and do it as best as we can, then we have got to give this committee some money to work with, we have got to give them some technical help, and some staff. I think then we will have a fair and impartial response to whether Maine does need "no-fault" and whether the particular bill they come out with is the one we should have.

Insurance premiums in the State of Maine annually paid by our people, our constituents in the State of Maine, amount to between eighty and one hundred million dollars a year. That is between eighty and one hundred million dollars a year that is paid by Maine citizens to insurance companies for auto insurance premiums only. Isn't that worth \$10,000 so we can give our citizens a fair shake? Thank you.

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

Mr. COX: Mr. President and Members of the Senate: I do not wish to prolong the debate on this but I would like to defend the membership of the Business Legislation Committee. We do have three members that are in the insurance business. My understanding is that none of these gentlemen handle automobile insurance, which makes me satisfied. It is truly representative: we have a certified public accountant, four businessmen, real estate agents, a housewife, a teacher and a student. All of these people stand ready, willing and able to handle this legislation without further cost to the citizens, and I support the motion.

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

Mr. SCHULTEN: Mr. President and Members of the Senate: I guess I originally rise to a point of information. I do have a few observations I would like to make about this, but I am not honestly sure in my own mind whether I am addressing myself to 4-1 or to the House Paper 1-1.

The PRESIDENT: The Chair would inform the Senator that the

matter under consideration is 4-1, the Joint Order, and the pending motion is the motion of the Senator from Cumberland, Senator Berry, that the order be indefinitely postponed.

Mr. SCHULTEN: So it is proper to give observations at this point.

The PRESIDENT: It certainly is.

Mr. SCHULTEN: Thank you, Mr. President. And I would have to be honest to the point of saying that I am perfectly willing to take the time necessary to speak on this, and I hope my fellow Senators would indulge me in whatever time I do take. I think this is why we are here, and I make no apologies for what remarks I have got to say.

Basically, I think overall we are setting up a very dangerous precedent. We have committees that are set up to do the job of handling proposed legislation before this session or any other session. I think the Business Legislation Committee over the years — and incidentally, I have had the pleasure of serving on the Business Legislation Committee — I believe our President of the Senate was Chairman of the Business Legislation Committee, and at the time that he was, I think, they handled the very complex, very involved insurance revision code. I was not on the Business Legislation Committee at that time, but I know that the reaction throughout the state was very favorable to the way that this particular committee handled themselves, handled the questions, and resolved the matter into the legislature itself.

I think that actually if we do anything other than put this bill to the Business Legislation Committee, we in effect, are impugning the ability and the integrity of the members of that particular committee. Now, I would have no objection, unwieldy as it might be, to have the Business Legislation Committee meet with this special committee, if perhaps this was the decision of the legislature. But I do feel it is very important that we do not sidetrack one of the major committees of this 106th Legislature. I know they have done a good

job overall over the years. I know these people are as dedicated as anyone else. I do know that if there is ever a matter of conflict of interest raised, and I think we are beginning to look or have started shadows on this matter, they have just as much a sense of responsibility as anyone else. After all, the only purpose of a legislative committee is to hear the people in public hearing on their views of pending legislation. This committee has done the job, and done the job creditably over the years. For us to take any action other than to put this to its proper place, in Business Legislation, I think would be a terrible mistake.

I think that the fact that additional money is needed to ferret out some of these questions is a matter that can be resolved between the two bodies. They can make a special appropriation. There has been money appropriated, as the good Senator said. They have studied this matter for over a year and a half. Certainly we are all cognizant of the fact that the federal government has studied this, and practically every state in the union has studied it. It would seem to me that for considerably less than \$10,000 we could write to people and say "Will you please forward us your conclusions as to how you feel 'no-fault' insurance works, or how you view the possibility of adopting such a program." To spend a lot of money to set a special committee to do a job that has been done perhaps fifty-one times already, I think this is a sheer waste of money. And more importantly, it is impugning the creditability of a very important committee in this legislature. I certainly oppose the motion by Senator Tanous of Penobscot.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: I think there is going to be criticism whether it goes to Judiciary or it goes to Business Legislation. I think the solution proposed by

Senator Tanous is an excellent one, to create the joint select committee. Again, as it has been pointed out, the precedent was set here on public lots.

I think it is rather strange too for members of the leadership of this legislature to appoint, or have something to do, I believe, with the appointment of Senator Tanous to head a select committee to go half way around the country to study this thing for a year and a half and not use the benefit of his expertise on a committee, and I think we would probably get the independent appraisal that something of this nature dictates if we had the independent select committee. So, I would oppose the motion to indefinitely postpone.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from Cumberland, Senator Berry, that Joint Order, Senate Paper 59, be indefinitely postponed.

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 before the Senate is the motion of the Senator from Cumberland, Senator Berry, that Joint Order, Senate Paper 59, be indefinitely postponed. A "Yes" vote will be in favor of indefinite postponement; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Anderson, Berry, Cox, Greeley, Hichens, Joly, Katz, Marcotte, Minkowsky, Olfene, Peabody, Roberts, Schulten, Sewall, Shute, Wyman and President MacLeod.

NAYS: Senators Aldrich, Brennan, Cianchette, Clifford, Conley, Cummings, Cyr, Danton, Fortier, Graffam, Huber, Kelley, Morrell, Speers, and Tanous.

A roll call was had. Seventeen Senators having voted in the

affirmative, and fifteen Senators having voted in the negative, with one abstention, the Joint Order was Indefinitely Postponed.

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

Mr. BERRY: Mr. President, having voted on the prevailing side, I move reconsideration and hope you vote against me.

The PRESIDENT: The Senator from Cumberland, Senator Berry, moves that the Senate reconsider its action whereby this Joint Order was indefinitely postponed. As many Senators as are in favor of reconsideration will please say "Yes"; those oppose "No".

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

The President laid before the Senate the following matter tabled earlier in today's session by Mr. Berry of Cumberland:

Bill, "An Act Providing for a No-fault Automobile Liability Insurance Law." (H. P. 1) (L. D. 1)

Pending — Reference to Committee.

Thereupon, the Bill was Referred to the Committee on Business Legislation and Ordered Printed in concurrence.

Out of order and Under Suspension of the Rules, the Senate voted to take up the following:

Papers from the House House Papers

At this point, the Bills, Resolve, and Resolution today received from the House requiring Reference to Committees were acted upon in concurrence.

(Off Record Remarks)

The Adjournment Order having been returned from the House, Read and Passed in concurrence, on motion by Mr. Sewall of Penobscot, Adjourned until Tuesday, January 16, at ten o'clock in the morning.