

# 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

**Volume II**

MARCH 7, 1974 TO MARCH 29, 1974

**Index**

**Legislative Ethics Committee Report**

**SENATE**

Wednesday, March 20, 1974

Senate called to order by the President.

Prayer by the Rev. Millett E. Cummings of Norway:

Before the prayer, I have noticed in the paper many times "Senator Minnette Cummings", and I told the President of the Senate to pronounce my name "Millett" and not "Millette", but I am awfully glad to proceed. Shall we bow?

Almighty God, Supreme Ruler and Preserver of all Mankind, our Heavenly Father, we most heartily beseech Thee to look with Thy favor on the President of the United States, the Governor of our State of Maine, and the leaders of all nations throughout the world. Especially this morning we pray for the members and officers of this Senate, that they may fulfill the duties incumbent upon them by virtue of election to their respective offices. We ask Thy blessings on Senator MacLeod, the President of the Senate. Endow all of these with a portion of Thy divine wisdom, endow them with strength to know and to do Thy will. Fill them with the love of truth and righteousness, that their endeavors and deliberations may always be of lasting benefit to all the people of our great state, to the end that law and order and justice and peace may prevail, and whatever action is taken in this Senate may be to the honor and glory of Thy holy name. We offer this prayer in the name of Jesus Christ our Lord. Amen.

Reading of the Journal of yesterday.

**Papers from the House**  
**Non-concurrent Matter**

Bill, "An Act Relating to Retirement of Justices of the Supreme Judicial and Superior Courts and Judges of the District Court." (S. P. 825) (L. D. 2352)

In the Senate March 18, 1974, the Minority Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Senate Amendment "A" (S-399).

Comes from the House, the Majority "Ought not to pass" report Read and Accepted, in non-concurrence.

Mr. Berry of Cumberland moved that the Senate Insist.

Thereupon, on motion by Mr. Speers of Kennebec, tabled and Tomorrow Assigned, pending the motion by Mr. Berry of Cumberland that the Senate Insist.

**Non-concurrent Matter**

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide that Equal Protection of the Laws shall not be Denied or Abridged on Account of Sex. (H. P. 2018) (L. D. 2561)

In the House March 15, 1974, Finally Passed.

In the Senate March 18, 1974, Failed of Final Passage.

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

Mr. Berry of Cumberland moved that the Senate Insist and Join in a Committee of Conference.

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

Mr. CLIFFORD: Mr. President, I would oppose that motion. I don't think that the committee would be a fruitful one, and it seems to me that it would just contribute to the delay of the adjournment of the special session of this legislature. I think this measure was thoroughly debated the other day in this body and I think there was a pretty conclusive feeling that this was not put in for the motive of getting an equal rights amendment in the State Constitution, but for other motives, and that it really would do nothing but confuse and clutter the issue in the election next November.

It is no longer the same wording as the federal Equal Rights Amendment, so it no longer can serve as an advisory referendum and, since the original purpose is no longer valid, it seems to me we are just prolonging this legislative session by joining in a committee of conference for something that really doesn't serve any valid purpose. I would oppose the motion and hope that we then could adhere.

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

Mr. SPEERS: Mr. President, I would join with the good Senator from Androscoggin, Senator Clifford, in opposing the present motion. I think this matter has been debated in this body, I think it is very clear what the position of this body is, and I feel that a committee of conference coming out with different language would not serve to change the issue that is before this body at the present time. I would oppose the motion to insist and join and hope that the Senate would then go on to adhere to its former action.

The PRESIDENT: Is the Senate ready for the question? The pending motion before the Senate is the motion of the Senator from Cumberland, Senator Berry, that the Senate insist and join in a committee of conference. The Chair will order a division. As many Senators as are in favor of the motion to insist and join in a committee of conference will please rise and remain standing until counted. All those opposed will please rise and remain standing until counted.

A division was had. Seven Senators having voted in the affirmative, and twelve Senators having voted in the negative, the motion did not prevail.

Thereupon the Senate voted to Adhere.

**Communications  
State of Maine**

One Hundred and Sixth Legislature  
Committee on Marine Resources

March 18, 1974

The Honorable Kenneth P. MacLeod  
President of the Senate  
State House  
Augusta, Maine 04330

Dear President MacLeod:

The Committee on Marine Resources is pleased to report that it has completed all business placed before it by the 106th Special Session of the Maine Legislature.

Total Bills Received in Committee	10
Ought to Pass in New Draft and New Title	2
Ought to Pass with Committee Amendment A	1
Ought to Pass	2
Ought Not to Pass	1
Leave to Withdraw	4
	10

Respectfully submitted,

Signed:

PAUL R. HUBER  
Chairman

Which was Read and Ordered Placed on File.

**STATE OF MAINE**  
House of Representatives  
Augusta, Maine 04330

March 19, 1974

Hon. Harry N. Starbranch  
Secretary of the Senate  
106th Legislature

Dear Mr. Secretary:

Today the House voted to Adhere to its action on H. P. 2039, L. D. 2573, An Act Creating the Office of Executive Management and Providing for the Reorganizing of Executive Staff Functions, whereby on March 14 the bill and accompanying papers were indefinitely postponed.

Respectfully,

Signed:

E. LOUISE LINCOLN  
Clerk

House of Representatives  
Which was Read and Ordered Placed on File.

**State of Maine**  
One Hundred and Sixth Legislature  
Committee on Labor

March 19, 1974

The Honorable Kenneth P. MacLeod  
President of the Senate  
Maine State Senate  
State House  
Augusta, Maine 04330

Dear President MacLeod:

The Committee on Labor is pleased to report that it has completed all business placed before it by the 106th Special Session of the Maine Legislature.

Bills received in Committee	13
Ought to pass	2
Ought not to pass	1
Ought to Pass as Amended	1
Divided	4
Referred to the	

107th Legislature 5

Sincerely,  
(Signed) WAKINE G. TANOUS  
Senate Chairman

Which was Read and Ordered Placed  
on File.

State of Maine  
One Hundred and Sixth Legislature  
Committee on Taxation

March 19, 1974

Honorable Kenneth P. MacLeod  
President of the Senate  
State House  
Augusta, Maine 04330

Dear President MacLeod:

The Committee on Taxation is pleased  
to report the completion of all business  
placed before it by the First Special  
Session of the 106th Legislature.

Total number of bills received in  
committee 23

Ought to pass	4
Ought to pass as amended	4
Ought to pass in new draft	2
Divided reports	10
Leave to Withdraw	3

Recommitted bill	1
Ought to pass as amended	1

Sincerely,  
(Signed) J. HOLLIS WYMAN  
Senate Chairman

Which was Read and Ordered Placed  
on File.

State of Maine  
House of Representatives  
Augusta, Maine 04330

March 19, 1974

Hon. Harry N. Starbranch  
Secretary of the Senate  
106th Legislature

Dear Mr. Secretary:

Today the Speaker of the House  
appointed the following conferees on  
Bill, "An Act Providing for Maine Motor  
Vehicle Insurance Reform" (H. P. 1963)  
(L. D. 2504):

Rep. SUSI of Pittsfield  
Rep. McTEAGUE of Brunswick  
Rep. TIERNEY of Durham

Respectfully,  
(Signed) E. LOUISE LINCOLN, Clerk  
House of Representatives

Which was Read and Ordered Placed  
on File.

**Orders**

On motion by Mr. Tanous of  
Penobscot,

WHEREAS, Maine labor and industry  
have been in the forefront of finding  
means to cleanse our lakes, streams,  
rivers and air and will continue to  
advocate a moderate approach in  
support of this endeavor; and

WHEREAS, the quality of the human  
condition is as much a part of one's  
environment as the state of the air, soil  
and water, therefore, decisions  
including economic impact should be  
afforded equal consideration; and

WHEREAS, in balancing these  
interests, those responsible for  
administering environmental laws need  
added input so as not to overlook those  
who work and live on the land as well as  
those who are in need of sustenance; and

WHEREAS, economic impact is every  
bit as important as environmental  
impact and requires full consideration of  
each phase; and

WHEREAS, the Legislature considers  
it important that such economic factors  
be given equal consideration and as  
expediently as possible; now, therefore,  
be it

ORDERED, the House concurring,  
that the Board of Environmental  
Protection be directed to revise its rules  
and regulations in order that the  
economic impact upon labor and  
industry resulting from each and every  
application for license filed with the  
Board of Environmental Protection will  
be fully considered before reaching any  
final determination by the board in  
respect thereto; and be it further

ORDERED, upon passage in concurrence, that a copy of this Joint Order be transmitted forthwith to said Board of Environmental Protection as notice of this directive. (S. P. 945)

Which was Read.

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

Mr. BERRY: Mr. President, in reading the order over, I would invite the Chair's attention to the language therein. It appears to me, where it says it is important that economic factors be given equal consideration in the matter of the impact of our environmental laws, that we are here considering by joint order matters of a statutory nature and also, in particular, a matter which has been handled and turned down by this legislature. Therefore, Mr. President, I would question the germaneness of the bill.

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

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

### Committee Reports

#### House

#### Ought to Pass in New Draft

The Committee on County Government on, Resolve, Permitting the County of Kennebec to Expend Money for Public Ambulance Service. (H. P. 1688) (L. D. 2081)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 2037) (L. D. 2572).

Comes from the House, the Resolve, in New Draft, Passed to be Engrossed.

Which report was Read.

Mr. Minkowsky of Androscoggin then moved that the Resolve be Indefinitely Postponed.

The PRESIDENT: The Senator has the floor.

Mr. MINKOWSKY: Mr. President and Members of the Senate: I guess this can be construed from many different points of view as becoming involved in Kennebec County politics or looking at it from the viewpoint of the free enterprise system here in the State of Maine as we know it.

I question sincerely the merits and the intent and purpose of this type of legislation, first, as to its being allowed to be introduced into this special session as an emergency measure and, secondly, as to its being in competition with a reliable, dependable ambulance service that has established itself in Kennebec County over six years ago at the request of the Kennebec County undertakers.

It seems so easy today to allow the state or a municipality or the federal government to get involved in functions of the free enterprise system. But yet when this service has been adequately offered and has served a necessity and useful purpose in Kennebec County, predicated upon what I consider valid statistics and facts that there is only one ambulance call in a population of 10,000 and here in Kennebec County you have 65,000 people, that really there is not room for two people to operate; that this appears, in essence, to be in Kennebec County; and that they fail to take into consideration the trials and tribulations in the private sector of business of establishing this agency here six years ago.

These people operate in the City of Lewiston and also in the Augusta-Gardiner-Hallowell area. They have licensed trained personnel. They have at the present time an investment of in excess of \$175,000, and they don't have the loopholes that the municipality has insofar as purchasing ambulances at a low price or getting federal grants to do these things. They are a taxpaying organization. When they came to Kennebec County at the request of the undertakers, it was with the explicit intent that they would handle all the ambulance work. They realized full well that they could not survive on ambulance calls alone, and between negotiations and raising funds, signing notes and paying back these notes over the past six years, now they have got to the point where they are solvent and secure. All of a sudden people in Kennebec County, or the few powers that be, shall we say, want to have them demised. They say let us throw a carrot

out to you people, let us have you subcontract to the county commissioners in Kennebec County, here is \$100,000 and let us bail out some of the ambulance services who are operating out of hospitals, let's bail them out and just give them the money. But here are people who have come up by their bootstraps and went through the trials and tribulations and now are secure and solvent, but they are going to have, shall we say, the old heave-ho, and this is not right and proper.

It was interesting to listen to some of the rhetoric that materialized in the unmentionable branch about bodies laying around the area or waiting for a length of time to get ambulance service. These innuendoes, these exaggerations, these half truths, unfortunately were not substantiated by people in the other body. What has happened in one particular case is that it was alleged that a person had to wait 20 minutes for an ambulance, and this was not the case at all. It was at his own request that he wanted to go into a Waterville hospital instead of the Augusta General Hospital, and they could not afford to take an ambulance out of this area because they had to cover other emergency work in this area.

It is really too bad when here we go through the motion of governmental reorganization and then say to the people in a free enterprise system that we want you to hire people, we want you to train people, we want you to do everything and have the latest equipment, and yet when they get to this particular point we find that now we can go in competition against you.

Much has been said of some of the shenanigans that have been attempted, and I will give you one example, Mr. President. Nobody said anything in the unmentionable branch about the fact that when the Augusta General Hospital was overloaded they would not accept emergency patients and that then had to be further transported to the Togus Veterans Hospital for emergency case. They apparently seemed so competent and well qualified to handle everything else, except doing what was right and proper in servicing the people, as this particular corporation has done in this area.

They have very valid statistics, and everything that I got from them really proved that there is just not room for two ambulance services to be operated.

There has been mention made along the lines that after this money is utilized by the county in its allocations to the various municipalities or to the hospitals that the ones who partake of this bounty will be the ones who will be assessed by the county at approximately a dollar per head so they can keep this function going in competition with the private sector of business.

It was interesting to note — and I will just use one particular example here of the Town of Winthrop, which has a population of 4,335 people — that last year Ace had eighty ambulance calls in the Town of Winthrop. But gentlemen, you must bear in mind that these are not all emergency calls. These were to service the three major nursing homes in the area. The approximate cost for those eighty calls was \$3,200. Now, if the people of Kennebec County or the Town of Winthrop were to be assessed at a dollar per head, they would be paying \$4,335, in addition to the insurance that the public ambulance service would collect. So it is double payment, and it just isn't right and proper.

It is strange when statistics were solicited of the existing ambulance service in this area that the people who got these statistics commented on what a commendable job they were doing, that their personnel were away above the national standards, and yet now they come forth and want to go in competition against them. I think if these people would really pay attention to the necessity for servicing the people at hand, they would be a lot better off than in trying to demise them.

There are many other factors, Mr. President and Members of the Senate, which I think might come out, but I think I will refrain from making further comments at the present time. However, I sincerely hope that reason and logic will prevail here this morning over impulse and emotions, and that on this particular measure which, I repeat again, is definitely not an emergency measure because there is no emergency existing in Kennebec County, that my

motion to indefinitely postpone this particular resolve will prevail.

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

Mr. SPEERS: Mr. President and Members of the Senate: Those of us who are representing parts of the County of Kennebec should apologize to the members of the Senate for discussing a matter that you perhaps at first glance might consider to be a parochial matter pertaining solely to the County of Kennebec. Indeed the bill itself does do precisely that, pertain just to the County of Kennebec. But I would urgently ask each and every single member of this body to pay very close attention to this bill because I feel it is one of the most important bills to come before this session having to do with the people in this county that we are considering here in this special session.

The good Senator from Androscoggin, Senator Minkowsky, represents his constituents very well, and his constituents happen to own Ace Ambulance Service. I would simply state right here at the outset that this is in no way any kind of vendetta against the owners of Ace Ambulance Service on my part. I frankly don't even know the gentlemen. And I am prompted to speak on this bill solely from the standpoint of the interests of the people of this county.

The good Senator from Androscoggin, Senator Minkowsky, has mentioned that this is a matter of government attacking the free enterprise system. I would like to remind the members of this body that it is, I believe, the philosophy of all of us here — it certainly is of the Republican Party — that it is the responsibility and duty of government to undertake those matters which the private enterprises system is unable to undertake. And I would submit that it is quite obvious, simply on the face of it, that the private enterprises system is unable to adequately undertake the responsibility of providing for emergency care and ambulance service when it is needed in Kennebec County.

The good Senator from Androscoggin, Senator Minkowsky, mentioned that allegations of 20 minute waits for ambulance services is simply untrue.

Well, I would like to mention that Ace Ambulance is located in the City of Hallowell and that if a person in the Town of Winthrop, the Town of Wayne, the Town of Monmouth, or further north in Kennebec County, happened to need an ambulance that it would take 20 minutes for that ambulance to get there in the first place, and then another 10 or 15 minutes to transport that individual back into Augusta to the hospital. I don't call that adequate ambulance service. When a person needs an ambulance for an emergency situation, he needs that ambulance immediately. Simply on the face of it, I see there can be no disputing that fact.

I regard this matter as analogous to fire protection and as analogous to police protection. If a fire started, are we really seriously contending that we should have just one fire house in the County of Kennebec and have all of these fire trucks go to the fire from that one fire house? Is the gentleman seriously contending that the Town of Winthrop should depend upon fire trucks in Augusta or Hallowell? That is the situation as it exists right now as far as an ambulance service is concerned.

In the second place, the individuals involved may not know where an individual in the Town of Winthrop resides, and it is going to take a little time for him to find a particular street, for example. Whereas, if an ambulance were housed in the Town of Winthrop, as it is contemplated by the county in contracting for ambulance services, the individuals there would certainly be familiar with the town and know where the individuals reside and could respond practically immediately to any call for help.

I went to law school in Washington, D.C. and I lived in a house in Georgetown. When I moved into that house I noticed a plaque on the side of the house. It was a little fire engine with a couple of hoses coming out and the appellation "UF" underneath it, and I was wondering what this was. I investigated it a bit and I found that this was a plaque placed upon the house by a private fire company, that in the old times the houses contracted with private fire companies to protect their houses against fire. If there were a fire, the fire

company would come to the house, but before it started putting out that fire it would look at the house to see whether or not that house was under contract to it, and if it didn't have the plaque on it, or if it happened to have a different plaque, the fire company would just turn around and go on back home. So it seems to me that that is a similar kind of case to what we have here.

What we are asking for in Kennebec County is the right to contract with private or public ambulance services to have those ambulances placed around the county in spots so that we can have more immediate response to calls for help. It is really as simple as that.

I would like to point out that this is enabling legislation. It enables the county commissioners to contract for ambulance services. The municipalities in the County of Kennebec now have that ability, and I am assured that the City of Augusta intends to pursue that right and to contract with ambulance services to serve the City of Augusta. We need this enabling legislation to allow the county to undertake this contracting on a regional basis. It seems to me that it would be far better to have the county on a regional basis undertake this matter rather than have each city or each municipality within the county go its own separate way if it were able to do so. I think it is probably obvious that not each and every single municipality within the county is able to do so because of the expense involved. The private organization is not able to do so because of the expense involved, therefore, it is incumbent upon government to become involved to provide this kind of service.

The good Senator from Androscoggin, Senator Minkowsky, also mentioned that the private organization at the present time is providing reliable, dependable ambulance service. I have already mentioned the length of time that would be involved for an ambulance to come from Hallowell to Winthrop or to Wayne or Monmouth, or even just to Manchester, but I would also like to read to this body an article that appeared a year ago, entitled "Ace Must Cut Back Nighttime Service. A state ruling has forced Ace Ambulance Service to curtail nighttime service, its owner said Tuesday. David Clark said there would

be delays in answering calls between midnight and 7 A.M. The ruling came out of the Bureau of Labor and Industry, which told Clark Tuesday that his drivers on night duty must be paid as full-time employees. As such, they will be paid for each hour at the station and overtime beyond 40 hours. Clark said his income from the ambulance service does not allow such expenditure and he has no choice but to relay late night calls to an employee at home, who will then go to the ambulance garage and drive to the scene. Clark said his is one of only two self-operated ambulance services in the state; the others are subsidized in one way or another."

So in addition to the amount of time it takes to simply drive from Hallowell to Winthrop, if there happened to be a call between the hours of midnight and 7 A.M., you are simply going to have an individual have to be called at his home, go to the garage, get the ambulance, and then drive out to Winthrop. I do not call that reliable, dependable ambulance service, because the nature of an ambulance service is that it is an emergency, it is needed immediately.

I hope that the Senate would resoundingly defeat the motion for indefinite postponement of this bill and allow the County of Kennebec to contract for services which are needed by its citizens and which its citizens should have.

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

Mr. ROBERTS: Mr. President and Members of the Senate: As you can see, this came out of County Government, and this is one of the most difficult pieces of legislation that we had before us at this special session. It was one that we considered for a good many sessions.

We invited representatives from Ace to come down from Lewiston and talk with us when they informed us they hadn't realized the date of our original public hearing and had not attended. We also had several sessions and several redrafts.

Originally this bill came in as a bill to permit the County of Kennebec to operate an ambulance service. In other words, as I looked at it, to go into the

ambulance service business. Now, I personally, and I am sure most of the people here in this body feel that wherever possible government, whether it is county, local, state, or federal, should stay out of public business, and I certainly haven't changed my feelings on that. However, this appears to be a situation where there is a problem.

Now, I am not here going to go into the various evidence that came out before us in the hearings as to whose fault it is and what the various problems are. Suffice it to say that the situation isn't working satisfactorily at the present time.

This was amended in a redraft which came out, as you will see, unanimously from the committee, which would not allow the counties to operate an ambulance service, but would allow them to contract with someone to provide that service, and to assist whoever that party, company or outfit might be, in that the county is permitted or enabled to use from their revenue sharing money the sum of \$100,000 to provide whatever assistance may be necessary, including the purchase of additional ambulances.

Now, the situation is such here in Augusta that the City of Augusta has bought an ambulance. It has not yet put that ambulance into service, and it indicates it would not put the ambulance into service provided that some other arrangement could be made whereby the system would be improved. This is enabling legislation, as Senator Speers has said, and there is nothing in this bill that would prevent the county from actually contracting with Ace to improve the service and use additional monies from this revenue sharing fund to carry that out. It is a situation which I think should be solved and perhaps this is the only way to solve it.

I would also point out that this is a resolve rather than an act and, as I understand it, a resolve is a so-called one-shot deal. In other words, the county is permitted to use up to \$100,000 of the revenue sharing money at this time to carry out and establish an ambulance service through contracting with some ambulance company. However, it isn't anything that is going to go on year after year and they aren't going to spend \$100,000 or any other figure, at least not

without coming to the legislature and getting their appropriation approved by the legislature. So I feel in this instance that the Senate should support the committee on this and not vote to support the motion of the good Senator from Androscoggin, Senator Minkowsky.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: I believe, from the rhetoric that Senator Speers has expounded on, that if the Municipality of Winthrop was having a problem, there is nothing to say they cannot contract themselves directly with Ace Ambulance Service. Insofar as having somebody on call 24 hours a day, I think they would be very glad to provide an ambulance as long as you people provide the personnel, because this is the expensive part of it, and house the equipment.

I am trying to make a correlation between the distance and getting there almost instantaneously. I think it is about a 15 minute run from their station in Hallowell to the Municipality of Winthrop. There are many municipalities and towns in the State of Maine that have volunteer fire departments and they get their personnel there, may be not quite as quickly because they don't work full-time as this private ambulance service does because they are on call 24 hours a day.

In reference to that newspaper article in 1973, that problem has been resolved, so it is not pertinent to this particular debate at the present time. If Senator Speers thinks to service a community of 4,335 people, with maybe sixty percent of those calls being to nursing homes, with a full-time ambulance there with people on call 24 hours a day, at least two men per shift, then you have got to be prepared to spend a great deal of money because it is going to cost a great deal of money to have this type of service. Yet you can have this service directly if your municipality wants to contract with this private agency.

We are talking really — and I am trying to reiterate the one single point of one ambulance call per 10,000 population

— we are talking of a sparsely populated area, and you just cannot have satellite stations all over. It just isn't feasible or practical because there is not that much demand. The statistics that have been compiled have been for the past six years, and I think basically had there been more communication when they had these different meetings by, shall we say, the powers that be, that had they contacted Ace or its officers to come in and analyze and weigh this thing pro and con, there would be no necessity for this legislation today, because I am quite sure it can be resolved very easily. But if there is a serious problem, which it has been indicated that there is, and I don't see it, I would say that, instead of trying to shove this thing through during a special session, these people should be gentlemen enough to sit down with Ace during the interim period of time between now and the 107th Maine Legislature and resolve this difference. Apparently this is not the name of the game.

I may not represent Kennebec County, but I come very, very close to Kennebec County in Sagadahoc County with Richmond, Bowdoin and Bowdoinham, and these people serve them very reliably and adequately. It just isn't right and proper in this day and age to take a company that has come up here, that has gone through this training and spent almost half a million dollars in the past five or six years, and set somebody up in competition against them. This, gentlemen, is not using reason and logic or good managerial economics.

It would take six persons around the clock to handle this particular service in the Municipality of Winthrop or a region of areas such as Winthrop, but the thing is that you are not going to get that many calls. I even made it a point to check with the various nursing homes in Kennebec County, and they are very disappointed that this bill was introduced in this special session because they have found the service very dependable and reliable.

I really believe that communications should be reestablished; not this gimmickry that has been prevalent of giving radio telephones out of Ace ambulances, that were donated by the Heart Fund, just to have your invalid

statistics to say that there is not direct communication between the hospital and them. These are some of the unfortunate things that have materialized. If the hospitals think that they are so almighty, and they are using taxpayers' funds, then we are going to be really in a very serious bind between legislation of this nature and what they will gain if the catastrophic bill goes through, and this represents millions of dollars.

These people are in the growing stages, they have done a commendable job, they are getting to the point now where they are self-sufficient and reliable, and the skids are being attempted to be put to them. I really believe that Senator Speers believes in the free enterprise system, and he mentioned this also as being a part of the beliefs of the Republican Party, so then let's give these people a chance to work this thing out between now and the 107th Legislature, instead of shoving something down their throat on the pretext that it is for the benefit of everybody, because they are very dedicated to their work.

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

Mr. KATZ: Mr. President, it seems like the oldtime days when we used to argue about Androscoggin County, and it is a unique experience for those of us from Kennebec.

Very briefly, the bipartisan county commissioners have identified the problem. The City of Augusta has purchased an ambulance which, in their view, is going to give them a local solution. The county commissioners feel that a local solution doesn't serve the needs of the county and they want a regional solution. I subscribe to the notion that we should seek a regional solution that will help the small towns as well as the city.

There is no way in the world why the consultation that the Senator from Androscoggin, Senator Minkowsky, suggests between the incumbent servants, Ace Ambulance, and the county can't continue under the framework of this bill. But this is the decision of the people whom I represent,

and it is their mature judgment that this is the route that would serve the people of Kennebec best, and I ask you to respect their wishes.

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

Mr. SPEERS: Mr. President, I certainly subscribe to the remarks made by the Senator from Kennebec, Senator Katz. I would like to re-emphasize that I certainly have no interest whatever in putting Ace Ambulance Service out of business. In fact, as the good Senator from York, Senator Roberts, mentioned, there is nothing in this bill that would prevent the county from contracting with Ace Ambulance Service and enhancing that business rather than putting it out of business. But neither do I have any interest in business at the expense of the interests of the people of this county.

Now, the good Senator from Androscoggin, Senator Minkowsky, mentioned that there is no sense of managerial economics involved in the arguments put forth by the proponents, and he is quite correct. In fact, that is why Ace Ambulance Service or any other private enterprise ambulance service does not have ambulances scattered around about the county ready to answer any emergency call that may be made, simply because it is economically unfeasible to do that. So this is where government has to step in.

The gentleman mentioned that there simply aren't that many emergency calls involved. Well, we can make these same exact arguments for fire protection and police protection. You can say well, there haven't been that many houses that have burned down lately in the Town of Winthrop so, therefore, we should do away with the fire department. This is a service that should be available to the people on an emergency basis.

I am reminded of a comment made by a gentleman before the Committee on State Government on another bill regarding a matter in the City of Gardiner, where the city school system has a resuscitator there. He mentioned that the resuscitator is very much under-utilized, that in fact they hadn't used it for the past year. So the

argument is akin to saying do away with the resuscitator because it is under-utilized and we don't need it. The fact of the matter is that when an individual needs an ambulance he needs it immediately.

The gentleman very casually stated "Well, it is a 15 minute run out to Winthrop from Hallowell." Well, ladies and gentlemen of the Senate, we are not talking about going out to lunch. We are not talking about going down the street to visit a friend. We are talking about an emergency situation where an individual may be clinging to life. How many of you would like to be undergoing a heart attack and be told "Well, it is a 15 minute run out from Hallowell, so just hang on for 15 minutes and you will have some help", if they can find your house? We are talking about an emergency situation, and that emergency help should be available to the people of this county, and they should have the right to contract for that help if they so desire.

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

Mr. CIANCHETTE: Mr. President, I rise to support the motion to indefinitely postpone this bill for quite a different reason than I have heard mentioned today. I represent four towns in Kennebec County, which equals about half of my Senate District. They happen to be in the northern part of the county.

We are talking here about the legislature approving the county's spending money. There are three county commissioners, as you know, and we have heard they are non-partisan. Two of them live in Augusta and one of them lives in Gardiner. The two county commissioners that live in Augusta are on our list of legislative agents, Item No. 70 and Item No. 100, as lobbyists for the City of Augusta. Now, when it comes to spending county money, I just don't like those odds, so I am going to support the motion and I hope you help me support the motion to indefinitely postpone this bill.

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

Mr. KATZ: Mr. President, perhaps the debate has gotten a little too intense, and

I am sure the Senator from Somerset, Senator Cianchette, did not mean to imply any improprieties on the part of the county commissioners of Kennebec County, one of whom is a close friend of many of us, Paul McClay, a Democrat, a lifelong resident of the City of Waterville, who now lives in Augusta. And believe me, in Kennebec County the interests of the entire county are beautifully served by these three highly capable and honest men.

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

Mr. CYR: Mr. President and Members of the Senate: I am a long ways from Kennebec County, but whatever we decide here today, then probably next session Aroostook County, Androscoggin County, or any other county will probably be in here for the same purpose.

Now, I would like for you to listen very carefully to what Senator Minkowsky has told you. I would also like to caution you very strongly about the implication that this action here this morning will have later on.

During the past three or four years we have been having trouble with ambulance service in my town, Madawaska. Right now, this spring, we are facing a possible \$32,000 bill as a subsidy, and this is only to guarantee having ambulance service. On top of that, the ambulances will also charge you for the call. \$32,000 means \$5.60 a head for us. We have another proposal from the hospital in Fort Kent which, around the clock seven days a week, would cost us \$46,000. That is over \$8 per capita. And this does not include the capital cost of the ambulance. This is only for the operation of the ambulance.

Now, if you want to have an ambulance next door to you in case you have a heart attack or some other emergency, you have got to prepare yourself for quite a bill.

I think that the presentation of Senator Minkowsky from Androscoggin makes a lot of sense to me and I shall support him.

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

Mr. SPEERS: Mr. President and

Members of the Senate: I think it boils down simply to whether we are to allow the people of this county to spend the money as they see fit for their own protection or whether we are to say to them you may not spend this money for this kind of service which you desire. The same argument can be made for the municipal fire protection or the police protection. Of course it costs money. Of course it is economically difficult to do this, otherwise private enterprise would be doing it. If they could make money at it, they would be doing it. If they can't, it is therefore incumbent upon government to provide the service for them if they so desire, and that is all that this legislation is involved with. It is enabling legislation letting the people of Kennebec County do this if they so desire.

Mr. President, I would ask for a roll call on this matter, and I see this as a vote very definitely on a very narrow special interest or, on the other side, the interests of the people of this county.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Oxford, Senator Henley.

Mr. HENLEY: Mr. President, I hesitate to get into this but I have listened to both sides, I am in neither county involved, neither Androscoggin or Kennebec, but I feel that there should be a little bit of an objection to some of the analogies drawn. I feel that there is no analogy between this request and a fire department. Fire departments, in general, across this county and across this state are supported by municipalities. I feel that if the municipalities within the county, whether it be Kennebec or any other county, themselves want to support an ambulance in their village or municipality, fine, I would go along with it. But when we are usurping the prerogatives of municipalities at the county level and saying we are going to decide if you are going to have so many ambulances in so many municipalities to have them more convenient, I feel that that is establishing a poor precedent.

Now, in the State of Maine we have a tremendous variation in the sparsity of municipalities and the size of our counties, etc. For instance, we have one county with 6,000 square miles in it; we

have another one with only 2,500, so we have a tremendous variance. Now, in my county if we established at the county level authority to put ambulances in various towns where we could get to people within 15 minutes, we would need probably 50 ambulances. There is a point where the citizenry just cannot afford it, and that is all there is to that.

In Kennebec County, as in Androscoggin County, the counties are fairly small and the towns are such that possibly they could get away with less number of ambulances. But it seems to me it is going to possibly be discriminatory if you put an ambulance in Winthrop. What about Farmingdale, and what about some of the other towns? Are you going to put an ambulance in every little village?

Now, as to the 20 minutes or 15 minutes, in our county, if we had 25 ambulances, it still would take some time, up to an hour, to get a heart patient or an accident patient to a hospital. It is just geographically impossible to do differently. So if we are going to establish a precedent by authorizing county government to raise funds to spend on any of these matters that they see fit, whether it be for an emergency ambulance, or what about a drug store — are we going to allow them to finance a drug store if you can't get to one in a little village, if you have got to drive 25 miles to one? It seems to me that the analogy is wrong. Counties do not support fire departments; the municipalities do. So I would say that the analogy is wrong there.

Based on the fact that we have in this county, as I understand it, private industry that is handling it, and as long as they do not leave it entirely to the municipality itself, I would feel that this bill was wrong and I shall support the indefinite postponement.

**THE PRESIDENT:** The motion before the Senate is the motion of the Senator from Androscoggin, Senator Minkowsky, that Resolve, Permitting the County of Kennebec to Expend Money for Public Ambulance Service, be indefinitely postponed in non-concurrence. A roll call has been requested. 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 Androscoggin, Senator Minkowsky, that Resolve, Permitting the County of Kennebec to Expend Money for Public Ambulance Service, 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 Cianchette, Cyr, Danton, Fortier, Graffam, Henley, Marcotte, Minkowsky, Olfene, MacLeod.

**NAYS:** Senators Berry, Brennan, Conley, Cox, Greeley, Haskell, Katz, Kelley, Morrell, Richardson, Roberts, Shute, Speers, Tanous, Wyman.

**ABSENT:** Senators Anderson, Clifford, Cummings, Hichens, Huber, Joly, Schulzen, Sewall.

A roll call was had. 10 Senators having voted in the affirmative, and 15 Senators having voted in the negative, with eight Senators being absent, the motion did not prevail.

Thereupon, the Ought to Pass in New Draft Report of the Committee was Accepted in concurrence, the Resolve in New Draft Read Once and Tomorrow Assigned for Second Reading.

The Committee on Judiciary on, Bill, "An Act Relating to Consent to or Surrender and Release for Adoption." (H. P. 1939) (L. D. 2476)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 2051) (L. D. 2585)

Comes from the House, the Bill in New Draft Passed to be Engrossed.

Which report was Read and Accepted in concurrence, the Bill in New Draft Read Once and Tomorrow Assigned for Second Reading.

#### Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act Amending the Elderly Householders Tax and Rent Refund Act to Improve Benefits to Their

Previous Level." (H. P. 1958) (L. D. 2501)

Reported that the same Ought to Pass in New Draft under New Title: "An Act Amending the Elderly Householders Tax and Rent Refund Act to Improve Benefits" (H. P. 2050) (L. D. 2584)

Signed:

Senators:

WYMAN of Washington  
FORTIER of Oxford  
COX of Penobscot

Representatives:

MORTON of Farmington  
FINEMORE of Bridgewater  
SUSI of Pittsfield  
IMMONEN of West Paris  
MERRILL of Bowdoinham  
MAXWELL of Jay  
DOW of West Gardiner

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

Signed:

Representatives:

COTTRELL of Portland  
DRIGOTAS of Auburn  
DAM of Skowhegan

Comes from the House, the Majority report Read and Accepted and the Bill in New Draft Passed to be Engrossed.

Which reports were Read and, on motion by Mr. Wyman of Washington, the Majority Ought to Pass in New Draft Report of the Committee Accepted in concurrence.

Thereupon, the Bill in New Draft was Read Once and Tomorrow Assigned for Second Reading.

#### Divided Report

Six members of the Committee on Judiciary on, Bill, "An Act to Clarify the Municipal Rent Control Law." (H. P. 1828) (L. D. 2318)

Reported in Report "A" that the same Ought to Pass in New Draft under Same Title (H. P. 2049) (L. D. 2583)

Signed:

Senators:

SPEERS of Kennebec  
BRENNAN of Cumberland

Representatives:

DUNLEAVY of Presque Isle  
KILROY of Portland  
PERKINS of So. Portland  
McKERNAN of Bangor

Six members of the same Committee on the same subject matter reported in Report "B" that the same Ought Not to Pass.

Signed:

Senator:

TANOUS of Penobscot

Representatives:

WHITE of Guilford  
BAKER of Orrington  
CARRIER of Westbrook  
WHEELER of Portland  
GAUTHIER of Sanford

Comes from the House, Report "B" Read and Accepted.

Which reports were Read.

Mr. Tanous of Penobscot then moved that the Senate Accept the Ought Not to Pass Report "B" of the Committee.

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

Mr. BRENNAN: Mr. President, I would rise in opposition to that motion. A bill was passed at the last session which was enabling legislation that would give the capability to the local towns and cities to set up some sort of rent control if they found that a housing emergency existed in that particular community. Apparently there were some ambiguities in that law, some technical defects, and this bill is here to correct those technical defects. It really makes no resounding change in the passed law; it merely cleans up these ambiguities and we would just be consistent with what we did at the last session.

It is clear it is simply a local control, local option, local capability, if a housing emergency exists in such and such a community. There were some problems apparently in Bangor, and the thinking was that the people in Bangor could not go forward to do anything because of the defects in the bill that we passed at the last session. So this Senate last session supported the concept of this legislation, and this, in effect, is merely clearing up the inconsistencies.

So I would urge you to vote against the motion to accept the Ought Not to Pass Report so that a new motion could be made to accept the Ought to Pass Report.

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

Mr. TANOUS: Mr. President and Members of the Senate: I think perhaps a few words are in order here in explanation of the requested amendments to clarify the Municipal Rent Control Law and my reason for opposing the suggested amendments.

At the last session I supported the bill to grant the municipalities the right to have municipal rent controls if they so desired. Now, apparently in the Bangor area there was a group of people concerned about the rental situation, and because they were unable to get satisfaction from the town fathers and the city fathers, they felt that now they should come back to the legislature and amend the law so they would have more clout in trying to twist arms and convince people that there is a serious emergency existing in the City of Bangor. Basically, this is the reason that this bill is before us, because they were unsuccessful in convincing the authorities that an emergency did in fact exist in Bangor. Apparently the town fathers did not agree with them, so this bill is before us. In fact, it is a new draft of the bill that was proposed, 2318, and the new draft is 2583.

Now, I can't support this bill. First of all, I don't think that the present law has been in existence long enough to really test it out. When they came back to the legislature to request that this bill be amended, the law had only been in effect two months at that time. It became law on October 3rd, and this bill was before leadership on December 5th, so the law hadn't even been in effect for a period of two months and here we are wanting to amend the bill. I feel that probably the present law ought to be given some time to work. It is a local problem. But here we are with 2583 trying to drive into the law just more leverage to use against the local authorities.

I have consistently opposed trying to shove down the throats of people at the local level state government. Now, you can call this a local rent control bill if you want to, but the bill spells out very definite penalties and procedures that they are going to be bound by. It is no longer home rule but is rule from the legislature.

I draw your attention, for instance, on

Page 2 to No. 4: the board or administrator may make studies, and it goes on to say that the administrator, one individual, will be granted subpoena powers. He would be granted all sorts of authority in this particular bill, to subpoena people and their books and records. I mean, one person can do this, and he can rule arbitrarily on his own decision as to whether rents should be increased or decreased — I guess mostly decreased — and to effectuate a program that he, his own self, deems necessary. This is an awful lot of authority to place in the hands of one person.

Of course, they have ruled out bankers from being on this particular board, and they have ruled out landlords, and I don't know who else you might place on the board except some second-hand car dealers possibly. And look at the penalties on Page 3. I mean, you know, these people who are asked to come before this board to give some testimony are apt to end up in jail for 11 months or have to pay a \$500 fine for perhaps not being familiar with the subject matter they are presenting.

Certainly, gentlemen of the Senate, I hope you would accept the Ought Not to Pass Report of the Committee and send this bill to its proper demise. Thank you.

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

Mr. BRENNAN: Mr. President and Members of the Senate: I continue to be baffled by the remarks of my good friend, the distinguished Senator from Penobscot, Senator Tanous. This is a home rule bill. If there is any action taken, it has to be taken by the local municipality. And it says right in the first paragraph, "then the municipality may enact municipal rent control ordinances." It is certainly home rule.

As far as the municipality being afraid of the citizens, I don't understand that. If there are enough people in a municipality that want this, they ought to be able to have it. So it certainly is a home rule situation.

In regard to penalties, if you read the section, it says: "Whoever knowingly makes any false statement in any testimony", that is perjury, and it only makes it a misdemeanor. Perjury —

generally speaking it is the same thing as perjury — generally speaking, calls for a felony. That is the law of Maine today, and this is making it a lesser penalty. But I don't think anybody is necessarily interested in the penalties. What people are interested in is giving the local municipality the capability, if a housing emergency situation exists, to act in the best interests of all of the people of that community. That is what this is about, and not much more. It is simple enabling legislation for the local municipality.

As I understand it, most people around here generally support the concept of home rule. If you do, vote against the motion of the good Senator from Penobscot, Senator Tanous, so that we can offer a new motion.

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

Mr. CONLEY: Mr. President, I concur with the remarks made by the distinguished Senator from Cumberland, Senator Brennan. I feel that it is a law that would be decided by the municipal officers, and if anyone is going to have faith in our elected officials, then I think this is the type of a bill that needs to be passed.

Mr. President, when the vote is taken, I ask that it be taken by the "Yeas" and "Nays".

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: The problem that gives rise to this bill was in the manner of defining what a rent emergency or housing emergency is. The original bill that was passed by the session last year was that should there be a housing emergency, then the municipalities may enact a rent control measure. And the problem arose by the vagueness of the definition of a housing emergency, and this bill is designed to specify what is meant by housing emergency, who determines it, and under what circumstances. So it is a clarification of the bill that was passed last year.

The PRESIDENT: Is the Senate ready

for the question? The pending question before the Senate is the motion of the Senator from Penobscot, Senator Tanous, that the Senate accept Report "B", Ought Not to Pass, in concurrence.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: I have enjoyed reading the bill, and it looks like another piece of one hundred percent socialism that if I were a candidate for higher office, I could appeal to a certain unsuspecting element of the voting public.

I would almost call it rabble rousing legislation when five percent of the registered voters of the municipality can petition for a hearing that would result in the establishment of a housing emergency, and when a housing emergency can be defined as any two or more of the following: deterioration of a substantial portion of existing housing stock — that is a new phrase in the lexicon of state law; insufficient new housing construction — what in the world do we mean by that? And in whose opinion? Who is going to determine that a substantial portion of existing housing stock is deteriorated? What is meant by deterioration? What is meant by substantial? I really don't believe that whoever had the genuine interests of the rent paying public involved had this in mind when he had local rent control in effect. I think this is just a sham and an illusion for people in areas who really need rent control.

Now, if they do need rent control, let's set up some decent honorable standards that can be enforced. Let's have definitions that mean something under the Maine statutes. Certainly these and other provisions here made this a totally unworkable law. It is too bad to take advantage of the existing and acknowledged housing shortage situation and the condition of some of our housing in Maine by attempting to pass such a sham as this. I hope you support Senator Tanous.

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 am rather

stunned by the rhetoric of my good friend from Cumberland, the distinguished Senator from Cape Elizabeth, in regard to rabble rousing and a hundred percent socialism. I say those remarks are absolute nonsense.

This is simply a situation to try to do something about a terrible situation that exists in the State of Maine, and that is housing. It is one of our worst conditions, and it is a simple situation to afford people in the local communities an opportunity to do something about that. That is what it is, and nothing more. I think rabble rousing and socialism really have no part whatsoever in this legislation.

If you believe in home rule, and if you believe in giving the citizens in the local communities a chance to do something about skyrocketing rents, you will support this measure.

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

Mr. TANOUS: Mr. President and Members of the Senate: I supported this bill when we enacted it, and if I checked the record, I would probably find Senator Brennan's remarks substantially the same as this morning.

This isn't as to whether or not we should adopt a bill to grant municipal rent control at the local level. We did this already. That law was only in effect for two months when a group from Bangor ran into some problem with the local authorities, apparently they couldn't convince them of their views on the situation in Bangor, and bam, they are right here in the legislature again wanting to amend the law that hasn't even been tried.

To grant the authority that you are going to grant to one person under this particular bill, the administrator, on Page 2, is something that I am not willing to buy to amend this particular bill. The administrator, on his own initiative, is granted subpoena powers, and certainly one individual ought not to be granted that power.

I am sure Senator Brennan would have to agree with the last line of the second paragraph when we are talking about a housing emergency. It says: "Abnormally high rents and other factors which would result in threats",

etc. That is a pretty broad statement to include in the law. I am sure, as an attorney, you would agree that the proposed amendment is indeed vague and in need of much work if they intend to answer the problem that is existing, or at least the problem that they feel is existing, in Bangor. I certainly hope that this matter would be defeated. Thank you.

The PRESIDENT: Is the Senate ready for the question? 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 Penobscot, Senator Tanous, that the Senate accept the Ought Not to Pass Report "B" on Bill, "An Act to Clarify the Municipal Rent Control Law". A "Yes" vote will be in favor of accepting Report "B"; a "No" vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Anderson, Berry, Cox, Fortier, Graffam, Greeley, Haskell, Henley, Katz, Minkowsky, Morrell, Olfene, Roberts, Tanous, Wyman, MacLeod.

NAYS: Senators Brennan, Clifford, Conley, Cyr, Kelley, Marcotte, Richardson, Speers.

ABSENT: Senators Cianchette, Cummings, Danton, Hichens, Huber, Joly, Schulten, Sewall, Shute.

A roll call was had. 16 Senators having voted in the affirmative, and eight Senators having voted in the negative, with nine Senators being absent, the Ought Not to Pass Report "B" of the Committee was Accepted in concurrence.

Mr. Tanous of Penobscot then moved that the Senate reconsider its action whereby the Senate voted to accept the Ought Not to Pass Report "B" of the Committee.

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

**Senate  
Ought to Pass**

Mr. Richardson for the Committee on Veterans and Retirement on, Bill, "An Act Relating to Review, Reports and Proposed Amendments of the Maine State Retirement System." (S. P. 944) (L. D. 2590)

Reported pursuant to Legislative Council Order dated December 19, 1973 issued under authority of 3 M.R.S.A., Section 162, that the same Ought to Pass.

Which report was Read.

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

Mr. RICHARDSON: Mr. President and Members of the Senate: During the past year the Committee on Veterans and Retirement has spent a great deal of time and effort in doing a comprehensive review of the retirement system. Because of delays in drafting, which were not occasioned by any fault on the part of the committee or its staff, the basic rewriting of the retirement system law is not going to be possible at this session. The committee is going to ask the Legislative Council to authorize drafting assistance to put these recommendations into law for the next general session of the legislature.

However, in one particular area we though it essential that action be taken by this legislature to ensure a closer working relationship between the retirement system board of trustees and the legislature. All too often the legislature has granted preferential or special retirement benefits to a person or a class of persons without regard to the effect that such action would have on the retirement system as a whole. The purpose of this bill is to ensure that the legislature and the retirement system board of trustees maintain a close working relationship so we don't have a repetition of the kind of thing that has led to the retirement system being in its present condition.

I hope you will accept the Ought to Pass Report.

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

Mr. BERRY: Mr. President and Members of the Senate: I am certainly going to support the motion of Senator

Richardson to accept the Ought to Pass Report. However, I very strongly object to the principle of the bill, and I have had a consistent position in this respect of dragging the legislature into the executive department of the government or having it participate in any way with the operations of outside boards and agencies.

I object, and with the elimination of it would strongly support that provision which says the Joint Standing Committee would receive the reports. I will read this to you if you have not looked at 2590. It says: "The trustees shall, at the close of each fiscal year review the financial condition of the Maine State Retirement System and its operation during the preceding year. They shall submit a report of that review to the Governor and Council and the Joint Standing Committee on Veterans and Retirement not later than December 1st." I don't believe that a joint standing committee of the legislature should in any way participate in the proceedings or actions of the Maine State Retirement System Board. This provision is carried over into a subsequent section which says that the report and recommendations of the board shall be submitted as soon as possible subsequent to the evaluation of any amendments to the Governor and Council and to the Joint Legislative Standing Committee on Veterans and Retirement, and the statement of fact repeats the same two provisions. I don't believe that this is a good basic concept for the legislature to participate in, and with this change I would wholeheartedly support the bill.

The PRESIDENT: Is it now the pleasure of the Senate to accept the Ought to Pass Report of the Committee?

Thereupon, the Ought to Pass Report of the Committee was Accepted, the Bill Read Once and Tomorrow Assigned for Second Reading.

**Ought to Pass in New Draft**

Mr. Tanous for the Committee on Judiciary on, Bill, "An Act to Establish Guidelines for Release of Accused Persons Pending Trial." (S. P. 766) (L. D. 2197)

Reported that the same Ought to Pass

in New Draft under same Title (S. P. 946) (L. D. 2594)

Which report was Read and Accepted, the Bill in New Draft Read Once and Tomorrow Assigned for Second Reading.

### Second Readers

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

#### Senate

Bill, "An Act to Provide for a Moratorium on the Issuance of Lobster and Crab Fishing Licenses." (S. P. 942) (L. D. 2587)

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

Sent down for concurrence.

#### Enactors

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

An Act Relating to the Powers of the Milk Commission. (H. P. 2014) (L. D. 2554)

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

#### Emergency

An Act to Create a Task Force to Evaluate the Financing of Transportation Programs in the State of Maine (H. P. 2034) (L. D. 2571)

This being an emergency measure and having received the affirmative votes of 21 members of the Senate, and 21 being less than two-thirds of the entire elected membership of the Senate, the Bill Failed of Enactment in non-concurrence.

Sent down for concurrence.

(See Action Later in Today's Session)

#### Orders of the Day

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

Bill, "An Act Providing for a Credit in Maine Income Tax Law for Investment in Pollution Control Facilities." (S. P. 737) (L. D. 2149)

Tabled — March 19, 1974 by Senator Berry of Cumberland.

Pending — Consideration.

(In Senate — Passed to be Engrossed

as amended by House Amendment "A" (H-753)

(In House — Bill and accompanying papers, Indefinitely Postponed)

Thereupon, the Senate voted to Recede and Concur.

(See Action Later in Today's Session)

### Reconsidered Matter

On motion by Mr. Richardson of Cumberland, the Senate voted to reconsider its prior action whereby Bill, An Act to Create a Task Force to Evaluate the Financing of Transportation Programs in the State of Maine, (H. P. 2034) (L. D. 2571) Failed of Enactment.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. RICHARDSON: 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 before the Senate is the enactment of Bill, An Act to Create a Task Force to Evaluate the Financing of Transportation Programs in the State of Maine, (H. P. 2034) (L. D. 2571) A "Yes" vote will be in favor of Enactment; a "No" vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Anderson, Berry, Brennan, Clifford, Conley, Cox, Cummings, Cyr, Danton, Fortier, Greeley, Haskell, Henley, Katz, Kelley, Marcotte, Minkowsky, Morrell, Olfene, Richardson, Roberts, Shute, Speers, Tanous, Wyman, MacLeod.

ABSENT: Senators Cianchette, Graffam, Hichens, Huber, Joly, Schulten, Sewall.

A roll call was had. This being an emergency measure and having received the affirmative votes of 26 members of the Senate, with seven Senators being 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 laid before the Senate the second tabled and specially assigned matter:

Bill, "An Act Relating to Minimum Warranty Standard for Mobile Homes." (H. P. 2019) (L. D. 2562)

Tabled — March 19, 1974 by Senator Berry of Cumberland.

Pending — Passage to be Engrossed.

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

Senate Amendment "A", Filing No. S-409, was Read.

The PRESIDENT: The Senator has the floor.

Mr. COX: Mr. President and Members of the Senate: During the 106th regular session there was enacted legislation establishing warranty for new mobile homes. As time progressed it developed that there were ambiguities in the law, and as a result in the special session there was a bill introduced to clarify the ambiguities.

The Business Legislation Committee did study the problem and came out with a new draft of the bill. After the draft was printed, I met with members of the mobile home industry who felt that the redraft was far too severe and went beyond the clarification that was needed. As a result of it, I offer Senate Amendment "A" today, which was worked out with representation from the industry, which does clarify the law and would give the Attorney General's office the proper legislation to get after those manufacturers from out of state who do not follow the warranty. I urge adoption of this.

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

Mr. SPEERS: Mr. President, I would ask a question through the Chair of the good Senator from Penobscot, Senator Cox, as to whether the thrust of this amendment is to relieve the dealer in mobile homes from giving a warranty as to the workmanship and materials in the mobile homes?

The PRESIDENT: The Senator from Kennebec, Senator Speers, has posed a question through the Chair which the

Senator from Penobscot may answer if he wishes.

The Chair recognizes the Senator from Penobscot, Senator Cox.

Mr. COX: Mr. President and Members of the Senate: The amendment states that the manufacturer shall provide a written warranty, and it further states that the dealer will countersign the warranty and certify to the best of his knowledge that the home is free from substantial defects in materials and workmanship and that the dealer will deliver the warranty to the buyer at the time of sale. And it will contain the terms of the warranty. It does not relieve them of any responsibility, the manufacturer is the one that establishes the warranty and those are the people who the first recourse is taken from.

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

Thereupon, Senate Amendment "A" was Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

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

Bill, "An Act Limiting the Amount of Money Spent on Promoting or Opposing Referendum Questions." (S. P. 749) (L. D. 2178)

Tabled—March 19, 1974 by Senator Berry of Cumberland.

Pending—Adoption of Senate Amendment "A" (S-396)

Mr. Katz of Kennebec then moved that the Bill and all accompanying papers be Indefinitely Postponed.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that this bill be indefinitely postponed.

The Senator has the floor.

Mr. KATZ: Mr. President and Members of the Senate: It is my recollection that in the regular session of this legislature we directed the Committee on Judiciary to review this whole question about referenda, initiated or otherwise. It seems to me we are getting into an extremely complicated area here, and the fact that we would have had an amendment to

consider indicates that we are in a complicated area.

How much should someone be permitted to spend in pursuing his support or opposition to an initiated petition, for example? It seems to me that if I were the Bath Iron Works, and some environmentalists got together and initiated a petition which would close the Kennebec River for all use except boating and recreation, I would take a look at my payroll and the responsibilities I had to my stockholders and to the people of the State of Maine for employment, and I would want to do everything I could in my power to inform the people of the threat to a major industry in the state. But there is much more than the implication of protecting a major industry. The question is: what is the right amount of limitation to put on? And I think all of us, having witnessed the effects of the public power issue and the amount of spending, all of us have a feeling that our present law is imperfect. But if there is enough wisdom in the Senate right now to assure me, and perhaps you, that a certain specific level is the right level to accomplish what we want in preventing somebody from buying an election, but at the same time permitting adequate leeway to have the public informed, I would like to know what that figure is.

Mr. President, I would hope that the Senate would support my motion and look forward to the report of the Committee on Judiciary so that we can face this question in the regular session with a little bit more wisdom and a little bit of knowhow than I think is present in this body today.

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

Mr. KELLEY: Mr. President and Members of the Senate: As you well know, in the interest of getting out of here early I have remained silent, and I will be very brief in this matter.

I think Senator Katz referred properly to the referendum last fall. I think there is a need as we are all aware, for some restrictions on the spending on various referenda. The perfect way to do it probably is not possible, but the bill originally introduced by myself would have put on a similar restriction as is

now present in gubernatorial campaigns. And I am sure we are all aware that there are restrictions now on congressional races and so forth, probably for many purposes. One is so that there is a set limit on the spending for various things such as advertising, and also so that various candidates probably, if they have the amount of money, can have a fairly balanced viewpoint put out to the public.

The bill came out of committee, Senator Shute's committee, after much deliberation I understand, greatly amended. As I recall, the amendment that the motion now is to kill would allow \$3,000 per individual or corporation on that. I would obviously oppose the motion to kill, and I am sure that you are all aware, as the Senator from Kennebec pointed out, of the need for some sort of limitation, and I suppose it is improper to wait now for the Judiciary Committee or anything else. So when the vote is taken, as you know, I would request it be taken by the "Yeas" and "Nays".

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President, I would like to pose a question through the Chair. In regards to the bill in its present status, how much can be spent to support or defeat a referendum issue?

The PRESIDENT: The Senator from Cumberland, Senator Brennan, has posed a question through the Chair which any Senator may answer if he wishes.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, \$3,000.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Richardson:

Mr. RICHARDSON: Mr. President, because of the remarks of the Senator from Aroostook, Senator Kelley, I am not sure that I understand or that he understands what the pending motion is, so I will ask the Chair to clarify it. As I understand it, the pending question is the adoption of Senate Amendment "A".

The PRESIDENT: The Chair would inform the Senator that the pending motion before the Senate is the motion of

the Senator from Kennebec, Senator Katz, that this bill be indefinitely postponed.

Mr. RICHARDSON: The bill or the amendment, Mr. President?

The PRESIDENT: The bill and all accompanying papers.

Mr. RICHARDSON: Thank you. That is what I thought.

The PRESIDENT: The Chair would inform the Senator that when a bill is indefinitely postponed usually the amendments that are pending go along with the bill.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President and Members of the Senate: I think I ought to say perhaps a few words on this particular matter because the Judiciary Committee has been requested by the Legislative Council to study this matter. We are about half way through the study, and as soon as we can get done with this special session, hopefully, we will conclude our study. I would think, if there is going to be any validity to the studies that we are conducting, that perhaps the committees ought to be permitted to at least report to the legislature and make recommendations before we act on bills or pre-empt the conclusion of the bill. Thank you.

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

Mr. BRENNAN: Mr. President and Members of the Senate: Maybe I am confused, but taking a look at the bill, L. D. 2178, it talks in terms of the amount that can be spent as being no greater than ten cents multiplied by the number of votes cast for all candidates for Governor at the next previous gubernatorial election. Now, as I understand that, there were approximately 320,000 votes cast at the last election, and ten cents times that would approximately \$32,000. I know the good Senator from Kennebec, Senator Katz, said you could only spend \$3,000. As I read the bill, the matter that is before us for indefinite postponement, it is \$32,000. I wonder if someone from the Elections Committee could tell us what we are voting on. Is it \$3,000 or \$32,000?

The PRESIDENT: The Senator from Cumberland, Senator Brennan, has

posed a question through the Chair which any member of the committee may answer if he wishes.

The Chair recognizes the Senator from Franklin, Senator Shute

Mr. SHUTE: Mr. President and Members of the Senate: This document came out of our committee with a divided report. The majority of the members of the Election Laws Committee submitted the amendment which is before you, which has been moved for indefinite postponement along with the bill. It was through an error that this did not come in as a new draft. I explained that the other day, and explained also that I had to place this amendment on in place of the original document. The amendment specifies no more than \$3,000 may be spent on any referendum issue by any person, corporation or association of persons. It is a restrictive type of proposal.

I believe that the people in Maine are ready for some kind of limitation set not only on campaign expenditure by candidates and by political committees, but also on referendum issues. Now, it may be that this document is imperfect, but we made an attempt to make it a little more perfect, probably with far less money than was originally proposed in Senator Kelley's bill, but it would have established a limit of \$3,000. If this is deemed to be insufficient in the minds of the majority of the Senators, it can be amended and brought up to a higher level, but someday, sometime these bodies are going to pass some kind of limitation on spending in a referendum campaign as well as for candidates.

(Off Record Remarks)

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

Mr. BRENNAN: Mr. President, a parliamentary inquiry again: is the only thing that is before this body the bill itself?

The PRESIDENT: Legislative Document 2178 is before the body. The previous motion to the motion to indefinitely postpone was the adoption of Senate Amendment "A" to L. D. 2178. So both the bill and the amendment are before the body. The motion of the Senator from Kennebec, Senator Katz, embraces all.

Mr. BRENNAN: Thank you very much.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I know that the students in the audience have been given a good lesson in procedures of debate by the moderating presiding officer. I would hope that you would vote against the pending motion because if the pending motion passes then this whole subject is dead for this legislative session. and it seems to me, although I think that \$3,000 is too little, the original bill, it seems to me, carries an amount which is somewhat reasonable. But at least the bill will be alive, and if someone has a better idea than ten cents per vote, we could put on an amendment. But to vote for this motion pending would absolutely close the door, and the Senate would be able to do nothing about referendums and the whole issue would be staved off until the next session of the legislature. I would hope you would oppose the motion, and then we could work on what we feel would be a reasonable amount that a person or a group of persons could spend on pushing or defeating a referendum. Thank you.

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

Mr. KELLEY: Mr. President and Members of the Senate: I will be brief again, and I appreciate the comments from the Chair also on this issue which, of course, was defeated last fall until it is out again next year to referendum. I do think it is important to keep the issue open on this, as the Senator from Androscoggin has properly pointed out, and I am sure you all are concerned as many of the candidates are going around campaigning, that I am finding — and as you well know, I am getting around a lot — there is quite a bit of sentiment about the state, and it is often brought up to me, that there be some curbs on spending, not only in the old campaign but in the future ones, so I am sure you are concerned about public sentiment, and it is very strong, that there be some curb put on and soon.

The PRESIDENT: The Chair

recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President and Members of the Senate: I feel very ambivalent, and that is the first time I have ever used that word in public, about how much we should limit. The Senate might be interested to know that the last time I spent \$56 getting elected, and I bet some of you wish you could say the same thing.

I am President of a corporation that has two stockholders. And if the state undertakes a course of action which is disadvantageous to my firm, it won't cost me more than one phone call to inform all my stockholders of the nature of the threat. Some of you are employed by corporations that have more stockholders than I do, and just the notification and the request for support from the stockholders in major corporations would certainly exceed the price of \$3,000. And to what extent should we limit a company fighting for its life? This last time it was the power company, and next time it could be another firm or it could be a whole class of citizenship. But the point I am trying to make is that we really don't know the answer, and we are all anxious to make some kind of a curtailment, but I really need the assurance of the information coming out of the Committee on Judiciary before I can make an intelligent vote.

I understand that there is going to be a bond issue up next November, but I really can't assign the same kind of pressures pro and con on the bond issue for highway construction that we saw last year. I don't think that the urgency is upon us, and I hope that in facing this very perplexing problem that we wait and get as much information and advice that we can.

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

Mr. MORRELL: Mr. President and Members of the Senate: I think we would appreciate from the proponents of this bill specifically why they are unwilling to wait for a report of the committee that has been asked to study it.

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: In reference to the question, I believe, that was posed by the Senator from Cumberland, Senator Morrell, why are we afraid to wait for the report of the committee, I think most of us who have been around here for a while know that that is just a convenient way of putting aside an idea indefinitely.

I think the \$3,000 figure is absolutely ridiculous. That would virtually remove from our law the statutory initiative. It makes no sense whatsoever. What it did, it stretched something to an extreme so it wouldn't be palatable to anybody. But I think the remarks of the good Senator from Androscoggin, Senator Clifford, are on point. We ought to keep this alive and put some figure in possibly in the next two or three days that would make some sense. Maybe the original figure of \$32,000 would have made sense. There isn't much question during the last referendum, because of the overpowering amount of money available to private utilities, that that issue went down to defeat. That is the principal reason; there isn't much question about that. And things shouldn't happen that way in public life.

I would hope that we would vote against killing this bill, and I will try to offer another amendment tomorrow that might make some sense.

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

Mr. TANOUS: Mr. President and Members of the Senate: I resent Senator Brennan's remarks relative to saying that the study is just an attempt to shove this aside. If Senator Brennan would have at least attended one single study meeting, maybe he could have helped the committee to promote and conclude the study and perhaps have it here this special session. Unfortunately, the attendance hasn't been that good.

The PRESIDENT: Is the Senate ready for the question?

The Senator from Cumberland, Senator Brennan, asks leave of the Senate to speak a fourth time. Is there objection? The Chair hears none. The Senator may proceed.

Mr. BRENNAN: Mr. President and Members of the Senate: I would put my

record on the line in regards to attendance with any Senator in this body.

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

Mr. BERRY: Mr. President and Members of the Senate: I would like to direct a question to Senator Brennan. Senator Brennan, did you attend any meetings of the committee?

The PRESIDENT: The Chair would call the attention of all Senators to Senate Rule 4, which states: "The President, when he speaks to any member of the Senate, and the members, when referring to each other in debate, shall use in their addresses the title of Senator, and by way of distinction name the county in which he resides."

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: I would direct a question to the Senator from Cumberland, Senator Brennan: Did the Senator attend any meetings of the committee?

The PRESIDENT: The Senator from Cumberland, Senator Berry, has posed a question through the Chair which the Senator from Cumberland, Senator Brennan, may answer if he wishes.

The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: For the benefit of my good friend, the distinguished Senator from Cumberland, Senator Berry, I would like to inform him that I believe I am the only member of leadership in this branch and in the other branch that has had a full-time joint standing committee assignment. I have not had the time, because of my other commitments in the Leadership, to attend some of these hearings. But again, I think it should be pointed out that there is not one other member of leadership, to my knowledge, that has that responsibility.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I hope the issue before us is not going to be clouded by

the attendance of Senators at committee hearings. The issue before the Senate today, it seems to me, is whether or not the Senate is interested in keeping alive a provision which will limit the amount of money that can be spent on a referendum question. If the vote is "Yes" on the motion to indefinitely postpone, it means that the Senate is not interested; if the vote is "No", it means that the Senate is interested, either with the \$32,000 provision or another provision which can be offered as an amendment. It seems to me that that is the issue today, and I hope that issue is not clouded by who or what Senators attended what committee hearings. Thank you.

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

Mr. MORRELL: Mr. President and Members of the Senate: I would like to politely disagree with my friend from Androscoggin, Senator Clifford. I think the other issue is that some of us may vote to indefinitely postpone this bill and amendment because we would like to hear the report of the committee that was assigned to study it at a later date. And that seems to me to make entirely good sense.

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

Mr. TANOUS: Mr. President and Members of the Senate: There is no question that we are getting away from the issue at hand, and I think basically the amount that can be spent on a referendum is the issue, but also the issue here at stake is the committee study that we have initiated here at the last session. In the interim this legislature in its wisdom saw fit to establish committee assignments for studies of very serious matters, matters that we didn't have an opportunity to study during the session.

This is one of the items that was assigned to the Judiciary Committee to study. The committee spent many, many hours studying this subject matter. I am sure we met once every two weeks for one or two days at a time. We are getting information from other states relative to the subject matter because we want to know how other

states are handling this situation. We are reviewing the entire initiated referendum laws and constitution of the state, and it seems to me that if we are going to pre-empt any results of a committee study and bring legislation in, perhaps bring it is a little too soon to suit the study at least, what are we in fact going to do to the study system that we have established? And this is a serious matter. In the future I am sure you will find that your committees will not have the initiative to study these matters, feeling that before they conclude their study some individual will sponsor legislation at a special session defeating the entire purpose of studies. Certainly we have had many, many good bills come out of study. The Municipal Labor Relations law came out of a study. We have had, I am sure, hundreds of others that don't come to mind. The environmental laws came out of study and the land use laws came out of study, so studies aren't a matter of shoving things aside to kill a proposal.

I think it is a subject matter that needs a lot of in-depth study. I don't think it is something you can just arbitrarily enact because the language sounds good. I think there is much more to it than this, especially in this particular area. I certainly hope that this matter would be indefinitely postponed.

The PRESIDENT: Is the Senate ready for the question? The pending motion before the Senate is the motion of the Senator from Kennebec, Senator Katz, that Bill, "An Act Limiting the Amount of Money Spent on Promoting or Opposing Referendum Questions", be indefinitely postponed. A roll call has been requested. 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 motion before the Senate is the motion of the Senator from Kennebec, Senator Katz, that Bill, "An Act Limiting the Amount of Money Spent on Promoting or Opposing Referendum Questions", 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, Cummings, Greeley, Haskell, Henley, Katz, Morrell, Olfene, Roberts, Sewall, Speers, Tanous, Wyman, MacLeod.

NAYS: Senators Brennan, Cianchette, Clifford, Conley, Cyr, Danton, Fortier, Kelley, Marcotte, Minkowsky, Richardson, Shute.

ABSENT: Senators Graffam, Hichens, Huber, Joly, Schulten.

A roll call was had. 16 Senators having voted in the affirmative, and 12 Senators having voted in the negative, with five Senators being absent, the Bill and all accompanying papers were Indefinitely Postponed.

Mr. Tanous of Penobscot then moved that the Senate reconsider its action whereby the Bill was Indefinitely Postponed.

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

Sent down for concurrence.

### Reconsidered Matter

On motion by Mr. Berry of Cumberland, the Senate voted to reconsider its prior action whereby on Bill, "An Act Providing for a Credit in Maine Income Tax Law for Investment in Pollution Control Facilities", (S. P. 737) (L. D. 2149), the Senate Recessed and Concurred.

On further motion by the same Senator, tabled and Tomorrow Assigned, pending Consideration.

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

Bill, "An Act Extending Collective Bargaining Rights to State Employees." (S. P. 817) (L. D. 2314)

Tabled -- March 19, 1974 by Senator Haskell of Aroostook.

Pending-Passage to be Engrossed.

(Committee Amendment "A" (S-401))

On motion by Mr. Berry of Cumberland, tabled until later in today's session, pending Passage to be Engrossed.

Mr. Olfene of Androscoggin was

granted unanimous consent to address the Senate:

Mr. OLFENE: Mr. President and Members of the Senate: Not realizing the full length of the special session, I had made previous commitments which force me to leave you today. As many of you know, I am not running again as a candidate for any political office—I thought I heard a start of applause — but I just want to leave you by saying that the experience, friendships, and the great education that I have received here in the State Senate in the 106th Legislature, in my opinion, has made me a better man. You have all been wonderful gentlemen. We haven't always agreed on political issues, but this is democracy and this is the way it should be done. I am not here to single out any of you because I consider you all very fine gentlemen and friends. But I am going to say, if I am allowed, just a remark or two about the President of this Senate.

I have been involved with many large organizations, and one thing I like is a man that I can really call the boss man. And to Senator and President Ken, I don't always agree with what you may be doing politically when you are off that rostrum, but when you drop that gavel in the morning until you close it in the afternoon you are truly a boss man. In my opinion, I am extremely proud to have served in your Senate, and I am sure that the rest of the Senators feel the same.

So to all of you, whether you are going for further and higher offices in politics, or whether you are planning to return or not, I only say it has been my pleasure to be with you and all of the staff members and all of the workers around the state house that have been so cooperative.

Thanks a million and God bless you all. (Applause)

The PRESIDENT: The Chair thanks the Senator for his overly generous remarks.

Mr. Katz of Kennebec was granted unanimous consent to address the Senate:

Mr. KATZ: Mr. President and Members of the Senate: You have heard me say many times that I consider this easily the best Senate in which I have

ever served, and the Senator from Androscoggin, Senator Olfene, is certainly one of the reasons why it is an outstanding Senate. And I just wanted to share with those of you in the Senate who are unaware of the fact that Senator Olfene may not be returning for elective public office but he is seeking national office in the Shrine. I think it goes without saying that as he goes off and pursues this ambition, that if indeed the members of this Senate could be voting members of whatever body elects him, he would have the unanimous support of all of us.

Under suspension of the rules, there being no objections, all matters previously acted upon in today's session requiring concurrence were sent down forthwith for concurrence.

On motion of Mr. Sewall of Penobscot,  
Recessed until 4:30 o'clock this afternoon.

#### After Recess

Called to order by the President.

The President laid before the Senate the matter tabled earlier in today's session by Mr. Tanous of Penobscot: JOINT ORDER — Relative to Board of Environmental Protection being directed to revise its rules and regulations. (S. P. 945)

Pending—Passage.

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

Mr. BERRY: Mr. President, I would question the germaneness of the order. It attempts to do by one means what is provided under the Constitution and directed by the Constitution to be done by another means. Accordingly, I don't believe this order is properly before us.

The PRESIDENT: The Senator from Cumberland, Senator Berry, has raised a question about whether Senate Paper 945 should properly be before this body. The chair would quote from Mason's, Section 7: "Constitutional requirements concerning procedure must be complied with. Constitutional provisions providing exact or exclusive time or methods for certain acts are mandatory and must be complied with."

Article IV of the Constitution of the

State of Maine says bills to be signed by the Governor; in case he disapproves, bills to be returned by him within five days. Section 2: "Every bill or resolution, having the force of law, to which the concurrence of both Houses may be necessary, except on a question of adjournment, which shall have passed both Houses, shall be presented to the Governor."

The Joint Order currently before us does have the force of law. It tells the Board of Environmental Protection that they must do certain things. The subject matter which is in this Joint Order was before this legislature at an earlier session and was turned down by this legislature. The Chair would rule that this Joint Order is not before the Senate.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President, before the Chair rules, I wonder if I might have a word relative to this matter.

The PRESIDENT: The Chair has made the ruling. If the Senator wishes to appeal the ruling of the Chair, he may. If he does not wish to appeal the ruling of the Chair, but wishes to make a speech under unanimous consent, I am sure the Senator would be granted that privilege.

Thereupon, Mr. Tanous of Penobscot was granted unanimous consent to address the Senate.

Mr. TANOUS: Mr. President and Members of the Senate: I am very familiar with the statute which the President has referred to, as well as the constitutional provision. Now, as to the ruling of the Chair, it may well be proper as far as the law is concerned, but I feel that on an Order or a bill that is presented before the legislature this would have to be a matter of a court ruling to determine whether or not it has any legal effect of any nature.

I am not convinced that the legislature has the right to rule whether a bill is constitutional or not, but that it is a matter for the court. And I would feel that any order or any bill that the legislature seeks to want to adopt or enact, that it would then be a matter for the court to determine the constitutionality of any specific provision. But, in any event, I certainly am not going to debate the point with the Chair. The Chair has made the ruling

and I am sure it is final and firm. Thank you.

The PRESIDENT: The Chair would further state for the record that this Joint Order would have the force of law by compelling the Department of Environmental Protection to consider certain criteria as a basis on which to base their decision. The Constitution is very clear that any bill or resolution having the force of law, which this Joint Order would have, must be in concurrence in both branches and be presented to the governor for his signature.

The President laid before the Senate the matter tabled earlier in today's session by Mr. Berry of Cumberland: Bill, "An Act Extending Collective Bargaining Rights to State Employees." (S. P. 817) (L. D. 2314) Pending — Passage to be Engrossed.

Mr. Katz of Kennebec then presented Senate Amendment "C" and moved its Adoption.

Senate Amendment "C", Filing No. S-413, was Read.

The PRESIDENT: The Senator has the floor.

Mr. KATZ: Mr. President, this amendment takes out the provision for collection of dues on a mandatory basis from those not members of the bargaining unit. I suggest that there are two roads that the proponents can follow to get a dues check-off: one through legislative action, and one through collective bargaining.

The intent of my amendment today is to say that I do not support the inclusion in a legislative document of this procedure. On the other hand, as far as I can see, the door is wide open if this bill were to pass, for those who were involved in collective bargaining to attempt to gain by collective bargaining that which they seek from the legislature.

In the public employee's bargaining bill presently used by the teachers, this dues check-off system is not in the law, but it is certainly bargained for collectively over the counter by the parties, and I understand it has presently been accepted by one unit. So we are not closing the door, but we are

saying go out and earn it through collective bargaining.

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

Mr. TANOUS: Mr. President and Members of the Senate: I rise to oppose my good friend, Senator Katz, on his proposed amendment which seeks to delete a part of Section 979-F, Item 3 on Page 9. I would like to read the part that he seeks to delete, or a very brief part of it, which states: "Nothing in this chapter shall preclude a labor organization that is the certified bargaining agent from entering into an agreement with the employer whereby during the life of collective bargaining agreement," etc. So all that this section does, in fact, is say that the parties may collectively bargain relative to the subject matter of dues. It doesn't mandate that they shall do this. It merely says that is it a subject matter for bargaining.

Now, they are doing this in the municipal sector, as Senator Katz from Kennebec has mentioned. They are doing this on a voluntary basis. This merely seeks to reaffirm what is presently being done on the municipal level and to write in the law what they apparently feel is in the law without it being specified specifically. So I don't see why this particular section ought to be removed from the law. It is, as I say, enabling legislation and it permits the parties to enter into negotiations in this area.

Now, I would like to give you an example. I know that perhaps some of you are opposed to the security section of a law of this type, but the section of the law has all of the protections necessary for anyone who doesn't want to join a unit for collective bargaining purposes. It has all of the statutes. An individual cannot be unreasonably or unduly penalized if he refuses to. He can't be penalized in any way, except that the section merely says that the employer and the employee can enter into an agreement whereby an employee who does not seek to join a collective bargaining unit, that he would have to pay his fair share of the cost. That is all that it says, his fair share. Now, his cost cannot exceed that of an individual who

seeks to belong to a unit, and the law spells this out.

I know some of you perhaps feel that this is trying to push something onto individuals who don't seek it, but the individuals that are going to belong to a unit, not necessarily belonging to a unit of collective bargaining, but belonging to that particular unit of employment, are going to derive all of the benefits that are going to be bargained for by that particular unit.

I bring an example to you, if some of you feel that this is unjust and unfair, and I use this as an analogy: An individual, a Canadian citizen, for instance — and we have many of them working here in the State of Maine, hundreds of them at least and perhaps thousands — now these individuals are not citizens of the State of Maine, yet they have the right to our police protection, they have a right to our schools, they have the right to our fire protection, they use our highways, they use all of the benefits that we have, and we charge them income tax both at the federal and state level, and sales taxes, and we charge them gasoline taxes and every other tax that we have imposed on us, so they are paying their fair share for the operation of the municipal, the county, the state and the federal governments, and they are doing it, believe me. Perhaps in most instances they feel they are being unjustly taxed because they are not a citizen or a resident of our fair state. And all that this bill does, as an analogy, is seek to collect a fair sum from the individuals who get the benefits from a collective bargaining unit.

As I mentioned, they are doing it now on the municipal level. They are bargaining in this area. This particular section of the law doesn't mandate that they have to agree to this; it merely says that they can negotiate this, that the employer, the state, and the state employees can negotiate this item. The state doesn't ever have to agree to it if they don't desire to do so. I am sure this would be left up to the unit representatives, the labor representatives of the state employees, as well as the representative of the state who would be bargaining on behalf of the state. I think it is a clear subject matter

for them to take into consideration for bargaining purposes.

I would move the indefinite postponement of Senator Katz's proposed amendment and I would ask for a roll call.

The PRESIDENT: The Senator from Penobscot, Senator Tanous, now moves that Senate Amendment "C" be indefinitely postponed.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, perhaps the only distinction I bear in this chamber is the fact that I probably represent more state employees than any other member of this chamber, and perhaps on that basis I am more sensitive to their wants.

Until 48 hours ago, I had no one contact me for or against this bill. One would think that my phone would have been buzzing saying "We want collective bargaining." No one — you think about the kind of mail you get on significant issues, and I tell you no one. Last night I had five phone calls. All five were opposed, not to collective bargaining as such, but specifically to the inclusion of the demand made in this section. I get the message loud and clear.

I have to share with the Senate my feelings that I didn't want collective bargaining legislation for state employees to be before this legislative session. The federal government is spending a bundle of money preparing a commission bill that would have come with the stamp of approval of a commission, that would have come with an enormous amount of research, and it is important legislation. And important legislation sometimes works out an awful lot better if it has a substantial amount of credibility and work and partnership behind it.

I have tried very hard to understand who wants this bill this session, and as I have interviewed the various members of the labor organizations out in the hall, I must tell you that I am confused as to who wants this bill this session. I am certainly not attacking the bill at the moment, but I am saying that it is my gut feeling, reinforced by my conversations, that this section of the bill is offensive to the people I represent, at least to the ones who have approached me.

The PRESIDENT: Is the Senate ready for the question? The pending motion before the Senate is the motion of the Senator from Penobscot, Senator Tanous, that Senate Amendment "C" be indefinitely postponed. A roll call has been requested. 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.

More than twenty percent of the Senators present having arisen, a roll call is ordered.

The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: Just very briefly, I want to rise in support of the remarks of my very good friend from Penobscot, Senator Tanous, who I know has been working very hard on this bill. As far as I can see, it is strictly permissive. It is negotiable, clearly negotiable, and I see nothing wrong with that. It is not mandatory, it is not forcing anything on anybody in regard to the contract. They can negotiate it, the state and the employees' groups, so I see nothing wrong whatsoever with the agency shop, so I hope we would vote to kill the amendment offered by the good Senator from Kennebec, Senator Katz.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Penobscot, Senator Tanous, that Senate Amendment "C" to Bill, "An Act Extending Collective Bargaining Rights to State Employees" 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, Brennan, Cummings, Danton, Kelley, Marcotte, Minkowsky, Richardson, Sewall, Speers, Tanous.

NAYS: Senators Berry, Cianchette, Clifford, Conley, Cox, Cyr, Fortier, Graffam, Greeley, Haskell, Henley, Katz, Morrell, Roberts, Wyman, MacLeod.

ABSENT: Senators Hichens, Huber, Joly, Olfene, Schulten, Shute.

Mr. Anderson of Hancock was granted leave to change his vote from "Yea" to "Nay", and Mr. Conley of Cumberland was granted leave to change his vote from "Nay" to "Yea".

A roll call was had. 11 Senators having voted in the affirmative, and 16 Senators having voted in the negative, with six Senators being absent, the motion did not prevail.

Thereupon, Senate Amendment "C" was Adopted.

Mr. Haskell of Aroostook then presented Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-411, was Read.

The PRESIDENT: The Senator has the floor.

Mr. HASKELL: Mr. President and Members of the Senate: I indicated yesterday that because of the nature of the bill that we are considering, we were going to get into some very complicated discussions, and I think today perhaps will prove the point. I think if you want to follow the discussion, you should open to the bill on the 4th page, under Section E.

The reason that this is important is that there is one very troublesome question when you start to write collective bargaining legislation in a state that has in effect a civil service or a merit system, because when you start to consider collective bargaining on the rules and regulations that are established by the legislature, you run immediately into the problem that you have to maintain certain standards of the merit system with respect to the federal establishment. There are certain civil service standards that the federal government insists upon if federal funding is going to flow freely to the state involved. So the question we are going to examine this afternoon is whether in fact, with the law that we have before us, we might some morning wake up and find that the whole flow of federal funds into the State of Maine might be stopped because we were not meeting federal standards. This is a very real possibility that I am sure the draftsmen of this act are well aware of because I think you will notice that the first amendment, a committee amendment, that was offered was an attempt to put language in that would forestall this eventuality. Whether

or not the language in the amendment would accomplish this purpose or not I don't know, because I don't know whether this type of approach has been used before in any state. I think that we should be very sure, however, in our own mind that we are not creating an apparatus that could threaten at some point federal funding.

Now, if you will look at the section in the law on Page 4 of L. D. 2314, in Section E, (1), it says: "All matters relating to the relationship between the employer and employees shall be the subject of collective bargaining, except those matters which are prescribed or controlled by public law." Now if you will go down through Section (f), the amendment that I am offering now would delete this whole section, because in Section (f) it says: "Rules and regulations for personnel administrations." Now, the facts of the matter are that the rules and regulations for personnel administration in the State of Maine are prescribed by law. So you are saying in one section that these cannot be negotiated; you drop down in Section (f), and you are saying they can be negotiated.

Now, following in Section (f) you see that there is an exception. It says: "except the following: Rules and regulations relating to applicants for employment in state service and classified employees in an initial probationary status, including any extensions thereof, provided such rules and regulations are not discriminatory", and so forth. The people that drafted this realize that the initial employment regulations could not be negotiated, because if they were subject to negotiation we might very well be in conflict with federal regulations and our funding would then be threatened, so those I excluded. But the rules and regulations, which is the area legitimately for negotiation, is excepted, but there is no attempt to specify the rules and regulations in this section that properly might be negotiated.

To demonstrate that this is not a figment of somebody's imagination, I have a copy of a letter from the United States Civil Service Commission. It was sent to Mr. Caraganis in response to a request by the Department of Personnel

here of the United States Civil Service Commission to review this law that we are concerned with here. Now, they say two very interesting things. We are concerned, however, the final and binding arbitration provision might cause a problem if an arbitrator should select a final offer in conflict with the federal merit system standards. And in reading the proposed legislation, there are no guidelines whatever written into the law to guide in negotiations, so that I can foresee many instances when an arbitrator who has to select the best of the offers from either side, he has to make a selection on the last best offer basis, he might have to select one that was in conflict. If that were the case then the federal funding flowing into the state would be threatened.

Now, I was extremely interested in an additional sentence that was included in this letter. These people obviously didn't want to be in a position of advising the State of Maine how to write legislation, however, they say this: "It has been indicated by some labor relations experts that legislation such as this bill should include a management rights clause." The amendment that I offered yesterday, and which was not accepted here, was a management rights clause. So, in effect, what these people are saying is they don't see how, in the absence of a management rights clause, you could avoid being in a situation, particularly on an arbitration procedure, where you might be in conflict with the federal merit system standards. To me, this is a very clear and present danger in continuing to go with this type of legislation. I want to emphasize again that we do have a choice. You don't have to write good collective bargaining legislation by this route. You can allow bargaining under a meet and consult law which avoids all of these problems of a conflict with the merit system.

I would like to read a couple of comments by people that in my view certainly should be competent in this field. "It is clear however, that the civil service merit concept and mandated collective bargaining for public employees are mutually exclusive. James Marshall, who is President of the 500,000 member Assembly of

Government Employees, stated in testimony last year it is the belief of his group that the legislation pending before this subcommittee does not promote or encourage the merit system concept, but would in fact be the most devastating blow to the merit system ever proposed. Another man, James J. Coturier, Executive Director of the National Civil Service League, has noted: "The civil service systems will undergo great change under collective bargaining. The merit principles and the civil service systems, as we know them, are going to be non-existent." I think that the testimony of these people, who are experienced in bargaining on the state level, and the testimony they give of the effect of this type of bargaining on the merit system principle, should give us pause to consider.

In my view, we made an error yesterday when we didn't appoint the management rights section, because all authorities who are competent in this area that I am aware of have indicated that if you are going to go for mandated collective bargaining, you must define the area in which you can bargain collectively. In the bill you have before you there is no attempt to define the area. It is extremely difficult to define the area, because in the municipal public bargaining law which we passed we weren't able to make the definition. We haven't been able to make a definition now. We are moving into an area that is much more complicated, because you have it at the state level, you have a merit system that if you allow collective bargaining in conflict with the merit system, you may threaten your federal funding.

As this bill is now, in the absence of the management rights which we turned down here yesterday, the only other approach to it is to do what I propose in the amendment: take the rules and regulations of the merit system of the personnel board out of the negotiating area.

I hope I have made at least somewhat clear the very real problem that we have and the steps that we might take to solve it. If this particular amendment is not adopted, the only other recourse that I can see to get away from the binding arbitration would be to write an

amendment, which would be extremely complicated, which would grant a limited right to strike for state employees and delete binding arbitration. You could avoid the threat to federal funding by this route. This is extremely complicated but it would seem to me that without a management rights section, or without taking bargaining out of the personnel board section, that this would be the only other alternative.

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

Mr. KATZ: Mr. President and Members of the Senate: I wonder if through the Chair I could pose a question to the Senator from Aroostook. In looking at the bill and following the debate that just occurred, it seems to me that the immediate effect of passing this amendment and taking all of (f) out of the bill would then put the burden back on this following phase: "Such matters appropriate for collective bargaining to the extent they are not prescribed or controlled by public law include but are not limited to: "Section (f) includes a restriction, and if you take the whole thing out, it seems to me you are opening the whole ballgame wide open and overlooking the benefits of the restriction, such as it is, in (f). I hope the Senator follows my remarks and might respond to the question.

The PRESIDENT: The Senator from Kennebec, Senator Katz, has posed a question through the Chair which the Senator from Aroostook may answer if he wishes.

The Chair recognizes the Senator from Aroostook, Senator Haskell.

Mr. HASKELL: Mr. President and Members of the Senate: In response to the question, Section E, says: "All matters relating to the relationship between the employer and employees shall be the subject of collective bargaining, except those matters which are prescribed or controlled by public law." The rules and regulations relating to initial and probationary employment are subject to law, the rules and regulations for the personnel administration are prescribed by law. So if you take that out, you would exclude the rules and regulations of the

personnel board and you would also exclude the regulations that apply to initial and probationary employment. These would not be subject to negotiations. Your negotiation then would be restricted to your wage and salary schedules, work schedules, vacation and sick leave, general working conditions, and overtime practices.

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

Mr. TANOUS: Mr. President and Members of the Senate: I am only sorry that my good friend Senator Huber from Knox isn't here today to assist me in the debate of this bill. I feel like I am totally alone here in having to respond to many of the questions in the debate on this particular bill, and I certainly don't want to monopolize the discussion on all the legislation, especially this one. I do thank Senator Katz for having taken the floor and asking some questions in debating the bill. I want to commend Senator Katz for picking that point out on page 4 because it is an important point. The rules and regulations are not public law, the rules and regulations of your personnel board, and I would fear that you would be doing away with management rights if you did away with that section. I think you would be doing exactly what you don't want to do. I think you would be opening that whole section of the rules and regulations to collective bargaining. I am sure that many people sitting in the back of the room would be pleased if that came out, and I would ask that the Senate not remove that. I mean, this is part of the management rights that we definitely wanted to include and make it explicit. Again, George West is the one that worked this one out to be sure that this area of the personnel law is not disturbed. "Rules and regulations relating to applicants for employment in state service and classified employees in initial probationary status, including any extensions thereof", etc., these are items that are not going to be subject to collective bargaining. We don't want to take that out of the bill. That would be doing just the reverse of what I think you

intend to do, Senator Haskell. So again, I hope that your amendment would fail for that one reason.

The paper that Senator Haskell read from, it almost seemed like it was addressing itself to this particular bill, but certainly it wasn't. I mean, those statements made by Jim Marshall, who is the Executive Director of the AGE, and MSEA's national organization, I mean, he certainly wasn't speaking to this particular bill. I think he was just addressing himself to subject matter perhaps dealing with collective bargaining generally, and certainly not to L. D. 2314.

I might add that the letter from which Senator Haskell read, I wish it had been read in its entirety. You see, in a courtroom you have the right to ask that a letter be read in its entirety when they borrow from it, and of course, that particular letter did praise this bill in many instances, and it had several reservations, as was mentioned. One of the reservations, dealing with the problem we might have with federal funding, has been taken care of by a committee amendment. We have a clause in the committee amendment which takes care of any part of the law that may be contradictory to the federal law so that we will not lose our funding because of the committee amendment that was added onto the bill.

Again on that Section 4, when we discuss the rules and regulations, of course, we are not discussing the existing rules and regulations. We are discussing future rules and regulations that may be changed by the personnel board. Now, some way or other these rules and regulations in the future — under the present system, of course, they do have public hearings and various representatives of state employees do have an opportunity to appear, so this isn't going to change that picture. I mean, it is still going to be a matter for discussion.

Relative to Senator Haskell's proposal of the open meet and confer clause, the NLRB, of course, is the best method that we could come up with, but unfortunately the Maine Municipal Labor Relations Law, when it came out of Legislative Research, I understand, the President of the Senate, Senator

MacLeod of Penobscot, was a member of that Council at the time, and they felt that it would be far better to include the language of this one as in the Maine Municipal Labor Relations Act, which is Section E that we are now discussing, or parts of Section E. I have, as Chairman of the Labor Committee for six years, wanted to use the broader language that everything perhaps you could meet, discuss and negotiate on, any subject matter, but unfortunately I don't think we could sell that concept to the Maine Legislature, so we have written it up and restricted it in this manner as we have in the municipal law.

I might add also that we do have seventeen states that do have collective bargaining, and I understand from all reports that collective bargaining in these seventeen states is working out rather well.

I just have the feeling, Members of the Senate, from the debate of Senator Haskell from Aroostook that he isn't in favor of collective bargaining for state employees. I mean, I just get that feeling from his discussion here and offering of amendments. But I would like to mention that if we don't enact something here at the state level — I feel we should, especially with this type of a bill which is enabling legislation and especially with this type of a bill which is enabling legislation and doesn't mandate this upon anyone, and now that Senator Katz's amendment has gone onto the bill, it certainly removes the one single objection to this bill that I have received from anyone. That was the amendment that Senator Katz from Kennebec just successfully put on the bill.

Now, relative to state employees wanting collective bargaining legislation, last year when we had a public hearing before the Labor Committee during the regular session, the room was just full with state employees and state employee representatives, and again at the special session the room was again full with state employees and state employee representatives. Virtually almost every segment of our state employees were represented. And believe it or not, those that were there made darn sure that they had a day off coming to them so they wouldn't be criticized for being

there. But we could have had as many more as I suppose wanted to attend, but they do have their jobs to attend to, so it was only those who were able to get the day off, under the rules and regulations of the personnel board, that were able to be there. But they were represented there by their various representative organizations.

I might also add that someone in debate mentioned that the federal government is working on a collective bargaining bill for all state employees as sort of federal legislation for all states to adopt. Well, I would personally be opposed to seeing the federal government coming out with a federal bill affecting each and every single state, because what might be good for New York or Massachusetts or California may not suit the needs of the State of Maine. For that reason, I feel we should enact a collective bargaining bill for state employees just for the sole reason of preventing the federal government from imposing their will upon the State of Maine, where the bill may well be fashioned for a state like New York or California or some other state.

So I hope we would defeat this amendment proposed by Senator Haskell and send the bill along for enactment. I think after we defeat this amendment that the bill will probably have met every criteria of objections anybody could conceivably come up with, and I feel the bill will then be at the point where we can then move it along for enactment. Thank you.

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

Thereupon, on motion by Mr. Katz of Kennebec, tabled until later in today's session, pending Adoption of Senate Amendment "B".

#### **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 Joint Standing Committee on Judiciary report out a bill providing for mandatory sentences for anyone

convicted of burglary, arson, or breaking or entering. (H. P. 2062)

Comes from the House, Read and Passed.

Which was Read.

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

Mr. CLIFFORD: Mr. President, a parliamentary inquiry: Since the subject matter of this bill, as I understand it, has been disposed of or is still in the legislative process, I wonder if this order would be in order.

The PRESIDENT: The Chair would answer the Senator from Androscoggin by stating that Bill, "An Act Relating to Initial Changes in the Penal System of the State and the Rights and Duties of Convicted Persons", and the redraft of that bill with the same title, had Senate Amendment "A" attached to it which is the same subject matter as this Joint Order. This matter is no longer before the legislature since today we received a communication from the House of Representatives that they had adhered to their action whereby they indefinitely postponed the bill and accompanying papers.

Under Joint Rule 21, which we have used quite a lot in this special session, "When any measure shall be finally rejected, it shall not be revived except by reconsideration; and no measure containing the same subject matter shall be introduced during the session unless three days; notice is given to the house of which the mover is a member. No measure shall be recalled from the legislative files except by joint order approved by a vote of two-thirds of both houses." The Chair would rule that under Joint Rule 21, the Senate could not pass this order at the present time without it lying on the table for the three-day period required under Joint Rule 21.

The Chair understands that the Senator from Penobscot, Senator Tanous, moves that H. P. 2062, be tabled for three legislative days, pending passage. Is this the pleasure of the Senate?

Thereupon, on motion by Mr. Tanous of Penobscot, tabled and Specially Assigned for March 25, 1974, pending Passage.

#### **Non-concurrent Matter**

Bill, "An Act Eliminating Waiting Period under Employment Security Law." (H. P. 2046) (L. D. 2578)

In the House March 18, 1974, Passed to be Engrossed

In the Senate March 19, 1974, Indefinitely Postponed, in non-concurrence.

Comes from the House, that Body having Insisted.

Mr. Berry of Cumberland moved that the Senate Adhere.

Mr. Conley of Cumberland then moved that the Senate Recede and Concur.

Thereupon, the Chair ordered a division. 12 Senators having voted in the affirmative, and 14 Senators having voted in the negative, the motion to Recede and Concur did not prevail.

Thereupon, the Senate voted to Adhere.

#### **Non-concurrent Matter**

Bill, "An Act Relating to Powers of Maine Port Authority." (S. P. 931) (L. D. 2564)

In the House March 12, 1974, Passed to be Engrossed.

In the House March 20, 1974, Passed to be Engrossed as Amended by House Amendment "A" (H-760), in nonconcurrency.

Thereupon, the Senate voted to Recede and Concur.

#### **Joint Order**

WHEREAS, retention of employees of the Bureau of Corrections is vital to the people of the State of Maine; and

WHEREAS, legislation was submitted during the 106th special session to provide additional longevity increases to such employees; and

WHEREAS, such legislation was determined to be constitutionally suspect by the Attorney General; and

WHEREAS, the Attorney General raised concerns about all employees receiving equal protection under the law; and

WHEREAS, the State Government Committee is currently reviewing the equities of the State Personnel system; now, therefore, be it

ORDERED, the Senate concurring, that the State Government Committee

study the feasibility of extending longevity increases to all classified employees of the State of Maine and report its findings to the 107th Legislature. (H. P. 2058)

Comes from the House, Read and Passed.

Which was Read.

Thereupon, on motion by Mr. Berry of Cumberland, tabled pending Passage.

(See Action Later in Today's Session)

**Communications**

State of Maine

One Hundred and Sixth Legislature  
Committee on County Government

March 19, 1974

The Honorable Kenneth P. MacLeod  
President of the Senate of Maine  
Senate Chamber  
State House  
Augusta, Maine 04330

Sir:

The Committee on County Government is pleased to report the completion of that business of the first special session of the 106th Legislature that was placed before this committee.

Total Number of Bills Received	11
Ought to Pass	5
Ought to Pass as Amended	2
Ought to Pass in New Draft	3
Divided	1

Respectfully,  
Senator John B. Roberts  
Chairman

Which was Read and Ordered Placed on File.

**Committee Reports**

**Senate**

**Ought to Pass**

Mr. Roberts for the Committee on County Government on, Bill, "An Act Relating to Supplemental County Budgets." (S. P. 947) (L. D. 2595)

Reports pursuant to Joint Order (S. P. 903) that the same Ought to Pass.

Which report was Read and Accepted, the Bill Read Once and Tomorrow Assigned for Second Reading.

Mr. Richardson for the Committee on Public Lands on, Bill, "An Act Clarifying the Regulation of Roadside Cutting Practices." (S. P. 948) (L. D. 2596)

Reports pursuant to Joint Order (H. P. 84) that the same Ought to Pass.

Which report was Read.

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

Mr. BERRY: Mr. President, I wonder if some member of the committee would explain this bill to us.

The PRESIDENT: The Senator from Cumberland, Senator Berry, has posed an inquiry through the Chair which any member of the committee may answer if he wishes.

The Chair recognizes the Senator from Cumberland, Senator Richardson.

Mr. RICHARDSON: Mr. President and Members of the Senate: The purpose of this legislation is to clarify existing language in our laws relating to the regulation of roadside cutting practices. If you will look at L. D. 2596, Sections 2 and 6 are the two that are in the bill. We intend to eliminate by amendment that provision in Section 1 which strikes out "numbered highway generally used by the public," and substitute in place thereof, "maintained town way, county way, state aid highway, state highway or interstate highway." The committee was unanimous in its belief that that language is too broad and the the bill as ultimately passed should include only the language set forth in subparagraphs 2 and 6 of Section 2.

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

Mr. BERRY: Mr. President, as I read Section 1 of the bill, it says: "It is unlawful for any person to cut trees within a distance of 100 feet from the right-of-way limits of any maintained town way." Now, if my home were on a town way, would I be able to cut a tree in the front yard.

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

Mr. RICHARDSON: Mr. President and Members of the Senate: As I just apparently unsuccessfully attempted to explain, Section 1 of this bill is going to be deleted by amendment, so that the present law would remain the same. That is, it would prohibit this cutting

only on numbered highways generally used by the public, that is, restore the present law. It is not the intent of the Committee on Public Lands to change the present law. We are going to delete that provision of the bill by amendment.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I also believe you will note that at the end of Section 1, is the word "except", and in the present law there are certain exceptions which are not prohibited. One of those is residential cutting on residential property for limited purposes, which I think the good Senator from Cumberland, Senator Berry, raised the question about. That is not prohibited now, would not be prohibited under Section 1 of the bill, and was not intended to be prohibited or interfered with.

The PRESIDENT: Is it now the pleasure of the Senate to accept the Ought to Pass Report of the Committee?

Thereupon the Ought to Pass Report of the Committee was Accepted, the Bill Read Once and Tomorrow Assigned for Second Reading.

**Communications**

State of Maine  
One Hundred and Sixth Legislature  
Committee on Public Lands

March 19, 1974

The Honorable Kenneth P. MacLeod  
President of the Senate  
State House  
Augusta, Maine 04330

Dear President MacLeod:

The Joint Select Committee on Public Lands is pleased to report that it has completed all business placed before it by the 106th Special Session of the Maine Legislature.

Total Bills Received	
in Committee	2
Ought Not to Pass	1
Leave to Withdraw	1/2

Sincerely,

(Signed) Harrison Richardson  
Chairman

Which was Read and Ordered Placed on File.

State of Maine  
One Hundred and Sixth Legislature  
Committee on Veterans & Retirement

Honorable Kenneth P. MacLeod  
President of the Senate  
State House  
Augusta, Maine 04330

Dear President MacLeod:

The Committee on Veterans & Retirement is pleased to report that it has completed all business placed before it by the 106th Special Session of the Maine Legislature.

Total Bills Received	
in Committee	10
Ought to Pass as Amended	2
Ought Not to Pass	5
Divided Reports	2
Referred to the	
107th Legislature	1

10

Sincerely,  
(Signed) Harrison Richardson  
Senate Chairman

Which was Read and Ordered Placed on File.

State of Maine  
House of Representatives  
Augusta, Maine 04330

March 19, 1974

Hon. Harry N. Starbranch  
Secretary of the Senate  
106th Legislature

Dear Mr. Secretary:

Today the House voted to Adhere to its action on H. P. 2015, L. D. 2556, An Act Relating to Initial Changes in the Penal System of the State and the Rights and Duties of Convicted Persons, whereby on

March 8 the bill and accompanying papers were indefinitely postponed.

Respectfully,  
(Signed) E. Louise Lincoln, Clerk  
House of Representatives

Which was Read and Ordered Placed on File.

### Enactors

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

An Act to Clarify Certain Election Laws. (S. P. 914) (L. D. 2526)

An Act Relating to Salary, Expenses and Travel of Members of Legislature. (H. P. 1928) (L. D. 2463)

(On motion by Mr. Conley of Cumberland, placed on the Special Appropriations Table.)

An Act Relating to School Buses. (S. P. 722) (L. D. 2134)

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

(See Action Later in Today's Session)

The President laid before the Senate the matter tabled earlier in today's session by Mr. Katz of Kennebec:

Bill, "An Act Extending Collective Bargaining Rights to State Employees." (S. P. 817) (L. D. 2314)

Pending — Adoption of Senate Amendment "B".

Thereupon, on further motion by the same Senator, retabled and Tomorrow Assigned, pending Adoption of Senate Amendment "B".

On motion by Mr. Berry of Cumberland, the Senate voted to take

from the table the following unassigned matter:

Joint Order — Relative to State Government Committee study of the feasibility of extending longevity increase to all classified State employees. (H. P. 2058)

Pending — Passage.

The same Senator then moved that the Joint Order be Indefinitely Postponed.

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

Mr. SPEERS: Mr. President and Members of the Senate: I would concur with the motion of the good Senator from Cumberland, Senator Berry, and just simply mention that the Committee on State Government is now conducting a study of the personnel laws and the personnel operation, and we are certainly not precluded from looking into this matter if it is a problem in connection with that study.

The PRESIDENT: Is it now the pleasure of the Senate that this Joint Order be indefinitely postponed in non-concurrence?

Thereupon, the Joint Order was Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

### Reconsidered Matters

On motion by Mr. Sewall of Penobscot, the Senate voted to reconsider its action whereby An Act to Clarify Certain Election Laws, (S. P. 914) (L. D. 2526), and An Act Relating to School Buses, (S. P. 722) (L. D. 2134), were Passed to be Enacted.

Thereupon, on further motion by the same Senator, placed on the Special Appropriations Table.

On motion by Mr. Sewall of Penobscot, Adjourned until 9:30 o'clock tomorrow morning.