

# MAINE STATE LEGISLATURE

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**Legislative Record**

OF THE

**One Hundred and Seventh Legislature**

(First Special Session)

OF THE

STATE OF MAINE

**1976**

KENNEBEC JOURNAL  
AUGUSTA, MAINE

## HOUSE

Monday, March 8, 1976

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

Prayer by the Reverend Charles Bray of Auburn.

The members stood at attention during the playing of the National Anthem by the Thornton Academy Concert Band of Saco.

The journal of the previous session was read and approved.

**Papers from the Senate**

From the Senate: The following Joint Order: (S. P. 740)

ORDERED, the House concurring, that all bills and resolves must be reported from committees by 5:00 p.m. on Friday, March 19, or by such later time as may be fixed by the Joint Standing Committee on Reference of Bills.

Came from the Senate read and passed. In the House, the Order was read and passed in concurrence.

From the Senate: The following Joint Order: (S. P. 739)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Nathan W. Watson of Bath Chosen by the Bowdoin College Alumni Council as the Twelfth Recipient of the Distinguished Bowdoin Educator Award

We the Members of the Senate and House of Representatives do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine.

Came from the Senate read and passed. In the House, the Order was read and passed in concurrence.

**Reports of Committees****Divided Report**

Majority Report of the Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-422) on Bill "An Act to Exempt Small Financial Institutions from Certain Insurance Requirements" (S. P. 654) (L. D. 2069)

Report was signed by the following members:

Messrs. REEVES of Kennebec  
THOMAS of Kennebec  
JOHNSTON of Aroostook

— of the Senate.

Mrs. CLARK of Freeport  
Mrs. BYERS of Newcastle  
Mrs. BOUDREAU of Portland  
Messrs. TIERNEY of Durham  
DeVANE of Ellsworth  
BOWIE of Gardiner  
HIGGINS of Scarborough  
RIDEOUT of Mapleton  
PEAKES of Dexter

— of the House.

Minority Report of the same Committee reporting "Ought Not to Pass" on the same Bill.

Report was signed by the following member:

Mr. PIERCE of Waterville

— of the House.

Came from the Senate with the Majority "Ought to Pass" as Amended by Committee Amendment "A" (S-422) Report accepted and the Bill passed to be

engrossed as amended by Committee Amendment "A" (S-422).

In the House: Reports were read.

On motion of Mrs. Clark of Freeport, the Majority "Ought to pass" Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-422) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading tomorrow.

**Study Report****Joint Select Committee on Jobs Tabled and Assigned**

Mr. Connolly from the Joint Select Committee on Jobs to which was referred the study relative to unemployment, pursuant to S. P. 391 and S. P. 555 have had the same under consideration and a majority asks leave to report that the accompanying Bill "An Act to Establish a Maine Community Jobs Act" (H. P. 2165) (L. D. 2293) be referred to this Committee for public hearing and printed pursuant to Joint Rule 3.

Report was read and accepted. On motion of Mrs. Najarian of Portland, tabled pending reference and tomorrow assigned.

**Orders**

Mr. Wilfong of Stow presented the following Joint Order and moved its passage: (H. P. 2159)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of David Tibbetts of Brownfield Who Has Achieved the Honor and Distinction of Eagle Scout in the Denmark-Brownfield Troop of the Pinetree Council of Boy Scouts of America

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine.

The Order was read and passed and sent up for concurrence.

Mr. Wilfong of Stow presented the following Joint Order and moved its passage: (H. P. 2160)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Kenneth Johnson of Brownfield Who Has Achieved the Honor and Distinction of Eagle Scout in the Denmark-Brownfield Troop of the Pinetree Council of Boy Scouts of America

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine.

The Order was read and passed and sent up for concurrence.

Mr. Wilfong of Stow presented the following Joint Order and moved its passage: (H. P. 2161)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Eric

Smith of Brownfield Who Has Achieved the Honor and Distinction of Eagle Scout in the Denmark-Brownfield Troop of the Pinetree Council of Boy Scouts of America

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine.

The Order was read and passed and sent up for concurrence.

Mr. Hunter of Benton presented the following Joint Order and moved its passage: (H. P. 2162) (Cosponsor: Mr. Teague of Fairfield)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of William Clark of Lawrence High School Winner of the First Place Medal in the Persuasive Speaking Contest of the Bicentennial Youth and Debate Program Sponsored by the Speech Communications Association of America and the State of Maine Bicentennial Commission

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine.

The Order was read and passed and sent up for concurrence.

Mrs. Miskavage of Augusta presented the following Joint Order and moved its passage: (H. P. 2163) (Cosponsors: Mr. Lewin of Augusta; Mr. Bustin of Augusta)

WHEREAS, the City of Augusta, on the evening of March 2, 1976, provided the Members of the One Hundred and Seventh Legislature with an evening of gracious hospitality; and

WHEREAS, this joining in good fellowship of Augusta officials and the Legislature in the magnificent beauty of the Augusta Civic Center was a warm and memorable occasion; and

WHEREAS, we wish to express our heartfelt thanks for the delightful evening extended by our Capitol City hosts; now, therefore be it

ORDERED, the Senate concurring, that the sincere appreciation of the Members of the 107th Legislature be extended to Mayor David N. Elvin and to the Honorable Members of the Augusta City Council for the gracious hospitality extended to them at the legislative reception given in behalf of the Legislature at the Augusta Civic Center on the evening of March 2nd; and be it further

ORDERED, that a suitable copy of this Order be transmitted forthwith to the Honorable David N. Elvin, Mayor of Augusta, in token of the sentiments expressed herein.

The Order was read and passed and sent up for concurrence.

**Tabled and Assigned**

Mr. Quinn of Gorham presented the following Joint Order and moved its passage: (H. P. 2164)

WHEREAS, the present state-wide University of Maine system was created on the recommendation of the Coles Commission of 10 years ago; and

WHEREAS, pervasive economic and societal changes have taken place in Maine since that time and a wide range of problems has developed; and

WHEREAS, the expense of operating the institution appears to exceed available revenues; and

WHEREAS, there is widespread concern about the needs and missions of individual campuses; and

WHEREAS, the allocation of legislative appropriations among the campuses and for instruction, services and administration is a continuing problem; and

WHEREAS, according to information reaching this Legislature, there are serious morale problems and uncertainty among the faculty and employees of the university; and

WHEREAS, this Legislature desires to maintain the best possible institution to represent our State and to educate our people; and

WHEREAS, the Legislature has little opportunity to review and discuss the specific operations of the university; and

WHEREAS, the dedication and contributions of university employees demand our respect and consideration and these people of the university have had little chance to be heard directly by the Legislature; and

WHEREAS, the review of the university cost effectiveness by the subcommittee of the Legislative Council established by this Legislature has not been fully completed and this subcommittee in its report has recommended that a review of university operations continue; now, therefore, be it

ORDERED, the Senate concurring, that there be created a Joint Select Legislative Committee on University Operations to remain in existence coterminous with this Legislature, this committee to consist of 10 members of this Legislature, 5 to be appointed by the President of the Senate and 5 to be appointed by the Speaker of the House, the Senate and House chairmen to be selected by the committee; and be it further

ORDERED, that this committee study and report on operations of the University of Maine with the goal of determining the effectiveness of current organization and operational policies; and be it further

ORDERED, that the committee specifically review the relationships and relative costs of the faculty versus the administration of the university; and be it further

ORDERED, that members of the committee shall be reimbursed for per diem, travel and expenses in the same manner as a Joint Standing Committee of the Legislature; and be it further

ORDERED, the Senate concurring, that the committee shall complete this study no later than 90 days prior to the next regular session of the Legislature, and submit to the Legislative Council within the same time period its findings and recommendations, including copies of any recommended legislation in final draft form; and be it further

ORDERED, that upon passage of this Order in concurrence and after appointment of the members of the committee, the Clerk of the House shall forward a suitable copy of this Order to each member of the committee.

The Order was read.

The SPEAKER: The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: The proposal before you in this joint order is to create a committee which would exist for the purpose of reviewing and examining the entire operations of the University of Maine.

The University of Maine, as we now know it, was created by a Coles Commission, a major legislative and public commission some ten years ago. In addition, there was a fairly sizeable review of the university made in the Maine Management and Cost Survey some years ago; some of their recommendations have been put into effect and some have not. In addition, a subcommittee of the legislative leadership was formed this last summer with some specific charges to look at in the university.

This subcommittee, which was headed by our Minority Leader, has done as much as they could do within their limited time. In their report that they furnished, they do recommend that an examination of the type they were conducting should continue. It is, therefore, for these administrative background reasons, and also for the fact that our university has major problems. To some extent, the greatness of the state can be measured by the quality of its university and the type of education that it offers people.

I have no axe to grind. I don't feel that the faculty is particularly right or the administration is particularly right or the university is right or the university wrong. I am simply aware that major problems do exist. For example, the formation of the union among faculty members is imminent, by all advice, and this, too, will be something entirely new in the academic experience of Maine. The fact that some of us feel the university is not properly applying its money or that there were some divisions between the various campuses, I don't think any of us can avoid.

And it is with this in mind that I offer the suggestion of this committee. I don't feel that the committee should be designed to defend the university; I don't feel it should be designed to tear the university apart, I think it simply should examine all of the problems that it sees, that it has time to do so, and I think this committee should seriously examine whether we should again, in the 108th Legislature, create a major commission similar to the Coles Commission of ten years ago with a view toward reviewing the entire university from top to bottom. The conduct of the committee will be largely up to the committee itself.

There is one technical question. In designing my order, I asked for five House members and five Senate members, and I have sent a draft of my proposal through all of the various leaders in both bodies and through the Education Committee, and so on, and they have all indicated that this was acceptable to them.

I have no particular brief for five House members and five members of the other body, all I want to do is have a body created that will function and that is interested in doing the job, whether we have ten from one house and two from another or five and five, to me is entirely immaterial. I had thought originally that since each body has an equal vote, each body should have an equal number of people, and it did seem to be received with some joy at the other end of the hall.

I have talked to Mr. Finemore this morning, and he has indicated that he

thinks perhaps we should change the composition of the membership and he may ask for tabling to that effect. If he does, I have no objection whatsoever to it being done.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I can sympathize with my good friend from Gorham, Mr. Quinn, in wanting to look into the operation of the University of Maine. However, I cannot support us putting together a special blue ribbon committee to do that. I think we are capable enough in this body with the Joint Standing Committees on Appropriations and Financial Affairs, or even the Performance Audit Committee — in fact, I believe that was one of the reasons why Performance Audit was constructed, to look into various phases of the operation of state government, and the University of Maine is no exception. For that reason alone, I move the indefinite postponement of this order.

The SPEAKER: The gentleman from Bangor, Mr. Kelleher, moves the indefinite postponement of the Joint Order.

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

Mr. FINEMORE: Mr. Speaker, I move that this be tabled for one legislative day.

Whereupon, Mr. Garsoe of Cumberland requested a vote.

The SPEAKER: The pending question is on the motion of the gentleman from Bridgewater, Mr. Finemore, that this matter be tabled pending the motion of Mr. Kelleher of Bangor to indefinitely postpone and tomorrow assigned. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

93 having voted in the affirmative and 14 having voted in the negative, the motion did prevail.

Mr. Hughes of Auburn presented the following Joint Order and moved its passage: H. P. 2166. (Cosponsors: Messrs. Talbot of Portland, Drigotas of Auburn, Mrs. Berube of Lewiston)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of the Key Clubs of Edward Little High School, Lewiston High School and Saint Dominic's Regional High School sponsors of the Recent Marathon Dance to Benefit the Maine Epilepsy Foundation

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine.

The Order was read and passed and sent up for concurrence.

#### House Reports of Committees Ought Not to Pass

Mrs. Berry from the Committee on Transportation on Bill "An Act to Require that Fluorescent Orange Clothing be Worn by Certain Persons Working on or About Public Highways in the Nighttime" (H. P. 1938) (L. D. 2126) reporting "Ought Not to Pass"

Was placed in the Legislative Files,

without further action, pursuant to Joint Rule 17-A.

#### Leave to Withdraw

Mr. Maxwell from the Committee on Liquor Control on Bill "An Act to Promote the Sale of Alcoholic Beverages Manufactured or Distilled in Maine" (H. P. 1893) (L. D. 2073) reporting "Leave to Withdraw"

Mr. Cox from the Committee on Taxation on Bill "An Act to Improve the Equity of the Maine Income Tax" (H. P. 2006) (L. D. 2185) reporting "Leave to Withdraw"

Mrs. Bachrach from the Committee on Human Resources on Bill "An Act Amending the Maine Indian Housing Authority Law Relating to Area of Operation and Transfer of Real Property" (H. P. 1834) (L. D. 1999) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

#### Consent Calendar

##### First Day

In accordance with House Rule 49-A, the following item appeared on the Consent Calendar for the First Day:

Bill "An Act Relating to the Initiative and Referendum Process" (Emergency) — Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-954) (H. P. 2027) (L. D. 2203)

No objections having been noted, the above item was ordered to appear on the Consent Calendar of March 9, under listing of the Second Day.

#### Consent Calendar

##### Second Day

In accordance with House Rule 49-A, the following items appeared on the Consent Calendar for the Second Day:

Resolve Authorizing the Exchange of Certain Lands in the Capitol Complex as Recommended by the Capitol Planning Commission (C. "A" H-950) (H. P. 1968) (L. D. 2157)

Resolution, Proposing an Amendment to the Constitution to Allow Judges whose Terms of Office Expire or who Reach Mandatory Retirement Age to Continue to Hold Office for up to 6 Months until their Successors are Appointed (C. "A" H-951) (H. P. 2037) (L. D. 2209)

No objections having been noted at the end of the Second Legislative Day, the above items were passed to be engrossed and sent up for concurrence.

#### Passed to Be Engrossed Amended Bill

Bill "An Act to Extend Collective Bargaining Rights to the Employees of Maine Maritime Academy" (H. P. 1944) (L. D. 2141) (C. "A" H-947)

Was reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed as amended by Committee Amendment "A" and sent up for concurrence.

#### Finally Passed

##### Constitutional Amendment

Resolution, Proposing an Amendment to the Constitution to Assure Revenues for Bond Service and Prohibit State Bonding of Current Expenditures (S. P. 689) (L. D. 2206) (C. "A" S-416)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being a Constitutional Amendment and a two-thirds vote of the

House being necessary, a total was taken. 121 voted in favor of same and 1 against, and accordingly, the Resolution was finally passed, signed by the Speaker and sent to the Senate.

#### Passed to Be Enacted

An Act Relating to Notifying Municipalities of Recipients of Public Assistance (H. P. 1894) (L. D. 2074) (C. "A" H-940)

#### Finally Passed

Resolve, Authorizing the Bureau of Public Lands to Convey the State's Interest in 4 Lots in Kingman, Penobscot County (S. P. 661) (L. D. 2086) (C. "A" S-414)

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

#### Orders of the Day

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

House Divided Report — Majority (8) "Ought to Pass" — Minority (5) "Ought to Pass" as Amended by Committee Amendment "A" (H-949) — Committee on State Government on Bill, "An Act to Provide for More Effective Debt Management and for More Effective Administration of the State's Development Financing Capability" (H. P. 1816) (L. D. 1974)

Tabled — March 4 by Mr. Cooney of Sabattus.

Pending — Motion of the same gentleman to accept the Majority "Ought to Pass" Report.

On motion of Mrs. Najarian of Portland, retabled pending the motion of Mr. Cooney of Sabattus to accept the Majority Report and tomorrow assigned.

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

Bill, "An Act to Remove the Minimum Mandatory Tax from the Railroad Excise Tax Formula" (H. P. 2003) (L. D. 2179)

Tabled — March 5 by Mr. Morton of Farmington.

Pending — Motion of Mr. Hewes of Cape Elizabeth to Indefinitely Postpone Committee Amendment "A" (H-952)

On motion of Mr. Palmer of Nobleboro, retabled pending the motion of Mr. Hewes of Cape Elizabeth to indefinitely postpone Committee Amendment "A" and tomorrow assigned.

Mr. Nadeau of Sanford was granted unanimous consent to address the House.

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: In an article in this morning's Portland Press Herald, it was mentioned, and I quote, "Representative Richard Nadeau said the party had one viable candidate, State Representative Neil Rolde of York." What I meant was that it had one viable candidate in the county, and I did not infer that other candidates in the Democratic Party were not viable. I just wanted to clear this up.

On motion of Mrs. Najarian of Freeport, Recessed until the sound of the gong.

#### After Recess 12:15 P.M.

The House was called to order by the Speaker.

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

Bill, "An Act to Correct and Clarify the Maine Banking Code" (Emergency) (S. P. 650) (L. D. 2057) (C. "A" S-417) — In House, read a second time

Tabled — March 5 by Mr. Rolde of York.

Pending — Passage to be Engrossed.

Mrs. Lewis of Auburn offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-956) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentlewoman from Freeport, Mrs. Clark.

Mrs. CLARK: Mr. Speaker, I move the indefinite postponement of House Amendment "B" to L. D. 2057 under filing number H-956, and would speak to my motion.

The SPEAKER: The gentlewoman from Freeport, Mrs. Clark, moves the indefinite postponement of House Amendment "B".

The gentlewoman may proceed.

Mrs. CLARK: Mr. Speaker, Men and Women of the House: House Amendment "B" before you, as presented by the gentlewoman from Auburn, Mrs. Lewis, reads, "This subsection shall not prohibit a security dealer from being the director of a financial institution if that security dealer or the partner or agent of his company does not negotiate or sell securities with that financial institution."

I do not mean to pick, but I do question the second word on the second line, "being the director." I think it would be more appropriately phrased to read "being a director." Now I would speak to the substance of the amendment as presented by Mrs. Lewis.

The Committee on Business Regulation, at public hearing and in its working sessions, extensive working sessions on this bill, took into consideration the suggestion offered by Representative Lewis, which she introduced at our public hearing. It was unanimously decided by the members of the Committee on Business Regulation at the final vote, as we reported out this measure, that her concern is not properly addressed at this time, and I would justify the committee's position on this matter by sharing with you the following facts.

Under Regulation R, under Section 32 of the Banking Act of 1933 — this is the federal banking act — "No officer, director or employee of a firm engaged in the issue flotation, underwriting, public sale or distribution of stocks, bonds or similar securities can legally be at the same time an officer, developer or employee of any member bank of the Federal Reserve System."

Congress enacted this law to deal with abuses contributing to bank failures resulting from security dealers dumping securities they were selling in banks which they served as officers or directors. The Banking Study Advisory Committee of the State of Maine, which prepared the new banking code which this House passed during the regular session of the 107th Maine Legislature, concluded that this provision had merit and should, therefore, be extended by the federal prohibition.

Of the 73 state chartered institutions in the State of Maine, only three are members of the Federal Reserve System and therefore are subject to this restriction. The other 70 will not be affected until October 1, 1977, so the proposal as suggested by the Representative from Auburn, Mrs. Lewis, is, we feel as a committee, not appropriate at this time. It does not preclude that

gentlewoman from introducing a separate bill in the regular session of the 108th Maine Legislature which can be discussed and certainly, I am sure, will be considered after study.

The SPEAKER: The Chair recognizes the gentlewoman from Auburn, Mrs. Lewis.

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I did go to the public hearing that the gentlewoman from Freeport, Mrs. Clark, spoke of and had some people with me. I was unaware that my suggestion was not going to be made part of the banking bill until it came before this body. Otherwise, I would have been happy to discuss it further with any of the members of the committee.

As you probably all know, at the present time a security dealer is allowed to be a member of the board of directors of a bank in the State of Maine, and that is the only group of people who have been precluded under the new banking code. I consider this justice, that these people should be given the same rights as other people who are allowed to serve on a board of trustees. However, in my amendment, if you will look at it, I very specifically say that neither the dealer, an agent or salesman of his company can sell securities or negotiate with that financial institution.

Other people who serve on boards of directors of banks are not restricted in that way, and security dealers formerly had not been restricted. However, I think they should be restricted, so I am putting that in. To me, it is only common justice that these people should be allowed the same rights as other people who are allowed to serve as trustees of banks.

I certainly hope you will adopt this amendment. I talked with Mr. Hilton of the Banking Commission this morning, and he says he is a hundred percent behind it.

The SPEAKER: The Chair recognizes the gentleman from Dover-Foxcroft, Mr. Smith.

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I was the sponsor of the banking bill the last session and served for two years, as some of you may recall, on a committee that was made up of a great number of bankers, public representatives and bank service users, and this issue came up before that study committee. I just want to inform you that it was rejected in order to, among other things, to make our law as conformable to the federal law as possible.

I have grave reservations about putting this thing through without more study than has been given to it here today, and I think the gentlewoman from Freeport has quite properly made the motion to indefinitely postpone. It seems to me that this item ought to have a public hearing in a regular session. I hope that you will vote to indefinitely postpone it today, if for no other reason than the ways of the law for the last few years has been on the side of indefinite postponement, and it seems to me that it would be quite incautious of us today, after the Banking Study Committee, composed very largely of bankers, has rejected this idea and the Committee on Business Legislation has also.

The SPEAKER: The Chair recognizes the gentlewoman from Newcastle, Mrs. Byers.

Mrs. BYERS: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the Business Regulation Committee, I would like to apologize to Mrs. Lewis for not speaking to her about her proposed

amendment. I did, however, speak to the stock broker who was with her, Mr. Robert Belknap of Damariscotta, and explained to him why we were not including this under the emergency measure that we are about to pass. At this time, federally chartered banks can have "now" accounts and the state banks cannot. That was the emergency. We did hope that since this particular part of the bill does not take effect until 1977, October of that year, that this would come up later for study. I do hope you do indefinitely postpone it today.

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker and Members of the House: I think this amendment should pass. Like in every area, it is hard to find qualified people, a lot of times, to advise in certain areas. And boards of directors of banks, that is merely what they do, they advise to some extent and having been around this type of thing some during my life, I realize the necessity of having somebody that understands in that area. I think it is a good amendment and I think it should pass.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: I hesitate to make this a situation this morning where we have a county or a family problem, but I must rise to support the amendment.

I think that actually we are over complicating what this amendment tries to do. It really is a very simple thing, and regardless of what the federal banking code says, it just simply says that a member of the profession that sells and deals in securities can serve as director of a bank as long as while he is in that position he does not do business with the bank of which he is a director. It is just as simple as it can be made. I don't think it requires a lot of study to know whether or not that person should be able to serve.

Today as directors of banks we have real estate agents, we have lawyers who do all of the work for the banks in searching their titles, we have all other sorts of people, building contractors who go to the bank to borrow money. In most every instance, the director, if you wanted to say so, you could almost say that there was a conflict of interest. But the one person that we deny is the securities dealer.

It seems to me that it would be a wonderful thing for a bank to have the expertise of the securities man on their board, a man who could advise them and at the same time do no business with them. I don't think it is a terribly complicated thing, and I would hate, for example, to see this amendment lost. It is not going to create any great furor, it is not something that is going to delay the importance of this bill, but in the interest of simple justice, it seems to me that, why should this particular profession be singled out as someone who could not serve as a director of a bank, even when they say they will do no business with that bank?

There are banks in the state, for example, who have directors who are attorneys who do all of the work for the bank in searching their titles. We don't seem to be interested in that, nor do we with real estate agents. So in this particular case, I think it would be to the advantage of the banks to have a security salesman and I hope that this amendment will receive passage.

The SPEAKER: The Chair recognizes

the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I think most of you are aware of the bad investments made by the large metropolitan banks where they have had to charge off millions and millions of dollars. Most of the larger banks in the state do have their own investment departments.

I have reservations in regard to the small banks. I would question a small bank relying on a dealer for investment judgment.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, I would just respond briefly to the gentleman from Livermore Falls, and I agree with what he has said, but nothing in this amendment says that the man who is a securities dealer, who is on the board, has to give them this advice. They don't have to go to him. It is simply that he can serve as a member of the board just because he is a dealer in securities. It doesn't mean that he is their advisor, but he may have the right to serve. It is a simple matter of justice.

The SPEAKER: The Chair recognizes the gentlewoman from Freeport, Mrs. Clark.

Mrs. CLARK: Mr. Speaker, Men and Women of the House: L. D. 2057 is an emergency errors and omissions bill to correct and clarify certain provisions of the comprehensive new banking code that this body enacted in the regular session. The bill contains no substantive revisions, nor does it raise any significant new issues.

The Committee on Business Legislation unanimously believed that such questions as proposed by Representative Lewis raise several serious concerns, each of which prompted the Business Legislation Committee to defer consideration of the issues until the regular session of the 108th.

Representative Lewis' proposal to modify Section 467 of the bill before us is the provision of the new code that again does not become effective until October 1, 1977. Security dealers in Maine may continue to serve on the boards of financial institutions until that date. At this time, no one has yet been affected by the provision and the application of the new banking code which was passed.

Again, we considered, as members of the Committee on Business Legislation, that Representative Lewis' proposed amendment is a major change in the financial institution law and need not and, indeed, should not be addressed at this time.

The SPEAKER: The Chair recognizes the gentlewoman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker and Members of the House: I urge you to oppose this amendment. I know I personally voted for the tabling motion last week but was under the impression that the amendment which would be offered was one which would make the prohibition extend to both lawyers and accountants as opposed to the amendment which we have before us. And just as a matter of law, just briefly I would like to read you one little paragraph *Lesieur vs. The Inhabitants of Rumford* in a 1915 case which starts out, "A fiduciary relationship," and it says, "It is well established, as a general rule, that one acting in a fiduciary relation to others is required to exercise perfect fidelity to his trust and the law to prevent the neglect of

such fidelity and to guard against any temptation to serve his own interests in the prejudice of his principles, disables him from making any contract with himself binding on his principles." The invalidity of contract entered into in violation of this rule does not necessarily depend upon whether the fiduciary intended to obtain an advantage to himself but rather upon whether it affords him the opportunity and subjects him to the temptation to obtain such advantage. The test is not whether harm to the public welfare has in fact resulted from the contract but where there is a tendency that such time will result and I would think any bank could certainly seek the advice of investment counsel and that perhaps it would be a good idea not to include those working directly within the investment field selling securities within a board and who are supposed to be acting as fiduciary trustees.

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. Farley.

Mr. FARLEY: Mr. Speaker, Ladies and Gentlemen of the House: To briefly rebut the arguments of the lady from Freeport, Mrs. Clark, the errors and omissions bill has been a catchall for ever since I have been here, so I don't think there is much of a problem getting an amendment on the bill.

I don't see anything wrong with this amendment. The problem is that it doesn't take place until October 1977, and if we find at that time, we can do away with it at the next regular session of the legislature. I don't find anything wrong with this argument. Unless I find more valid arguments then I have heard here this morning, than I would ask you to support the lady from Auburn, Mrs. Lewis on the amendment.

The SPEAKER: The Chair recognizes the gentleman from Durham, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: In response to the very valid question from my good friend from Biddeford, Mr. Farley, I would like to inform him and other members of the House why I, at least, feel that this is a bad amendment.

I am certainly concerned about the simple justice and common justice that the good gentleman from Nobleboro referred to, and I even think that simple justice and common justice should be conferred upon stockbrokers as the case may warrant.

But the difficulty with the present law, if this is amended, is as follows: Mrs. Lewis' amendment takes care of the problem where a stockbroker will serve as a director of the bank and then tries to sell securities to his own bank; this amendment prohibits that. But the danger which I see in this amendment, at least a potential danger which hasn't been addressed in public hearing, is the difficulty of a small bank, a small commercial bank, calling up a particular stockbroker and asking for advice on which securities this bank should invest its money in. I think that when a small bank contacts such a stockbroker, it should have the confidence of knowing that that stockbroker and all of the members of that stockbrokerage have no direct financial involvement with, perhaps, one of the competitors of this small bank. I think this is a problem.

A small bank when they call and get some advice from the stockbrokerage firm should be confident that the firm that they are talking to does not consist of anyone who is on the board of directors of a competing bank, and I think this is a protection which especially a small commercial bank needs and I think we should kill this amendment,

certainly, unless we have a great more information than we have now.

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. Farley.

Mr. FARLEY: Mr. Speaker, Ladies and Gentlemen of the House: To rebut the gentleman from Durham, Mr. Tierney, any degree of bad advice, and I am sure his advice won't be sought in the future.

We talk about makeup of boards here and all of us here in the regular session of the 107th decided to do away with a Maine Milk Commission Board and put some consumers on there who know what is going on and you know the kind of advice we got there. I think we need people like this sitting on some of the boards. Our financial institutions need some professional help and I think this is the way we ought to go.

The SPEAKER: The Chair recognizes the gentleman from Ellsworth, Mr. DeVane.

Mr. DeVANE: Mr. Speaker, Ladies and Gentlemen of the House: In response to the gentleman from Biddeford, I should like to say if some of the advice is as bad as it was in 1929, they won't have to worry about the future.

The SPEAKER: The Chair recognizes the gentleman from Dover-Foxcroft, Mr. Smith.

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: The entire thrust of the banking law here in this state in the federal act of 1933 and 1934, were, first of all, to promote competition and second of all, to promote stability. In this state we are governed, at least in part, by what we know as the Blue Sky Laws, which governs securities transactions under the state law. It seems to me that an amendment of this sort raises all kinds of question as to how the Blue Sky Laws of this state are going to bear upon the banking code. For instance, under the Blue Sky Laws and I can't answer the question, maybe some other attorney can here, are fee splitting arrangements among securities dealers permitted. It seems to me this is an important question if we are trying to contribute to a growing stability in our banking system, particularly when there is a possibility that fee splitting is permitted and if we were to enact a piece of legislation such as this today.

So I think perhaps this is a good amendment. I don't know but I am certain that most of the members of this House haven't had time to research all the implications of this and on the strength of a non-political cross section of this state constituted on that bank and study commission, I think we ought to turn this down and take the time to study this properly in a regular session.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I hope you would support this amendment because as I see it, the way the code is structured, in 1977, if we continue down the road we are going, you won't allow securities people, you won't allow lawyers, you won't allow accountants, you won't allow elected officials, and the only people we will have on the banking boards are the bankers and I am sure that none of us want that. I am sure that none of us want to narrow this down with the guise of protecting everybody and have no one but bankers on these bank boards. I feel that the whole idea is to have people from all walks of life, and I think it is discriminatory to say that you can't have stockbrokers or lawyers or accountants or even elected officials, if we want to go that far.

I hope you will support this amendment this morning and when the vote is taken I request a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

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

The SPEAKER: The Chair recognizes the gentlewoman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: I guess the reason that I am particularly interested in this amendment is that I did serve as the only investment researcher at the Canal National Bank in Portland, so I am a little familiar with this entire area. I would point out the fact that as a member of the board of directors of the bank, the security dealer would have access to the trust accounts, to the amount any depositor would have in a commercial account or anything else and this information, perhaps, should not be available to security salesmen.

The SPEAKER: A roll call has been ordered. The pending question before the House is on the motion of the gentlewoman from Freeport, Mrs. Clark to indefinitely postpone House Amendment "B". Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Ault, Bachrach, Bennett, Berry, G. W.; Berry, P. P.; Berube, Boudreau, Bowie, Burns, Bustin, Byers, Carpenter, Carter, Chonko, Churchill, Clark, Connolly, Cooney, Cox, Curran, P.; Dam, Davies, DeVane, Dow, Drigotas, Durgin, Faucher, Flanagan, Fraser, Garsoe, Goodwin, H.; Goodwin, K.; Greenlaw, Hall, Henderson, Hennessey, Higgins, Hobbins, Hughes, Hunter, Hutchings, Ingegneri, Jacques, Jalbert, Jensen, Joyce, Kany, Kelleher, Kennedy, LaPointe, LeBlanc, Littlefield, Lynch, MacEachern, Mahany, Martin, A.; Martin, R.; Maxwell, McMahan, Mills, Miskavage, Mitchell, Morin, Nadeau, Najarian, Peakes, Pearson, Pelosi, Pierce, Post, Powell, Quinn, Raymond, Rideout, Saunders, Smith, Snow, Strout, Susi, Talbot, Theriault, Tierney, Tyndale, Usher, Wagner, Wilfong, Winship, The Speaker.

NAY — Albert, Bagley, Birt, Blodgett, Call, Carey, Conners, Cote, Dudley, Dyer, Farley, Farnham, Finemore, Gould, Gray, Hewes, Hinds, Immonen, Jackson, Kauffman, Kelley, Laffin, Laverty, Leonard, Lewin, Lewis, Lizotte, Lovell, Lunt, Mackel, MacLeod, McKernan, Norris, Palmer, Perkins, S.; Perkins, T.; Peterson, P.; Rollins, Shute, Silverman, Snowe, Sprowl, Stubbs, Tarr, Teague, Torrey, Tozier, Truman, Twitchell, Walker.

ABSENT — Carroll, Curran, R.; Curtis, Doak, Fenlason, Gauthier, McBreairty, Morton, Mulhern, Peterson, T.; Rolde, Spencer, Webber.

Yes, 88; No, 50; Absent, 13.

The SPEAKER: Eighty-eight having voted in the affirmative and fifty in the negative, with thirteen being absent, the motion does prevail.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Farnham.

Mr. FARNHAM: Mr. Speaker, a question through the Chair to a member of the committee if they would care to answer. I note on Page 2 of the bill, Section 5, this

statement. "If the Superintendent, the Deputy Superintendent, Examiner or other professional personnel of the bureau obtains a loan from any financial institution subject to supervision or regulation by the bureau, the fact of such loan, together with the terms and conditions thereof, shall be disclosed immediately to Superintendent in writing by the person obtaining the loan and by the institution making such a loan."

Now, it would seem to me rather ridiculous that if a bank makes a "sweetheart" loan to the Superintendent of Banking and it does notify the Banking Superintendent that he has a "sweetheart" loan, he is going to disclose it. It would seem to me that the committee might consider an amendment whereby information of this nature would go to the Commissioner of the Department instead of the person who is obtaining the "sweetheart" loan. Certainly, if I was a Banking Superintendent and I had a "sweetheart" loan and the bank lived up to the laws and sent me a letter and say you have a "sweetheart" loan of \$10,000, I am going to kind of shred that up in little pieces and put it in the wastebasket.

The SPEAKER: The Chair recognizes the gentlewoman from Freeport, Mrs. Clark.

Mrs. CLARK: Mr. Speaker and Members of the House: We are dealing with Section 5 of the bill. The issue was debated by members of the committee, and you will find in your amendment a variation from that which is presented in the printed L. D. 2057. That issue, we will say, was more closely defined. Members of the family were defined.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker and Members of the House: The section that the good chairwoman is referring to is in Committee Amendment "A" and it does say, right on page one, "such person's spouse or such person's son or daughter residing at such person's home". I think the question which is a little bit more defined than it is in the original bill; I think that the question Mr. Farnham is directing to is the fact that if the commissioner should get a loan, he is going to be notifying himself.

I am not sure that we can make everybody responsible to everybody else. If the commissioner of the bureau is not a trustworthy person, I think we have got problems anyway. I am not sure how many people you are going to have to inform up the ladder, so to speak, maybe we should have all the disclosures made to the Governor. I think we have done as best we could, and I don't think you can inform too many people. All the loans would be sent to this bureau, and I assume that if anybody with superior qualifications wanted to take a look into these, they could find out who had made the loans and what loans and the terms that were in the agreement, and I don't think there is any other way we could go. I don't think you can involve too many people in disclosure.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I would simply like to point out that if a loan is made, it would be rather difficult to conceal it from the federal or state examiners.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Pierce.

Mr. PIERCE: Mr. Speaker, Ladies and Gentlemen of the House: I think Mr.

Farnham brings up a very good point, but the answer is, if the superintendent borrows, he cannot borrow from his state bank, he has to borrow from a national bank. I think that should solve his problem.

Thereupon, the Bill was passed to be engrossed as amended by Committee Amendment "A" in concurrence.

Mr. Hughes of Auburn was granted unanimous consent to address the House.

Mr. HUGHES: Mr. Speaker and Members of the House: Last week this House passed, and remarkably passed, a bill to repeal the law against marathon dances. We did this of course, as we heard from the gentleman from Portland, Mr. Talbot, to make it possible for the key clubs of the three high schools in Lewiston-Auburn to sponsor a marathon dance for the benefit of the Maine Epilepsy Foundation. They did sponsor that dance, and the president of their club, by coincidence, is a page here today, Mr. Tony Ranno of Auburn, and he tells me that they made at least — a rough guess at this point — that they made a profit of over \$5,000. I would just hope that the House might express their appreciation for the kind of work that this club has done. (Applause)

Mr. MacLeod of Bar Harbor was granted unanimous consent to address the House.

Mr. MacLEOD: Mr. Speaker, Ladies and Gentlemen of the House: I would like to bring to your attention this morning a letter that is on your desks from the State Development Office which I think many of you probably have read and some haven't. I just think that our state has fallen into sort of a precarious position with a business out there that is just a little bit bewildered at this stage in the ballgame as far as the state is concerned here in Augusta. I speak of our tourist industry, of which I am a part of and have been for a great many years.

As some of you may or may not know, we do not at this time have an existing facility here on the state level to even answer or send out literature pertaining to what the State of Maine has to offer as far as the tourist industry is concerned. This is explained to you in this letter this morning, which has been distributed in the House by Representative Cooney and on behalf of the State Government Committee, which I understand will be hearing a bill a little later in the session to try to raise funds through a method of taxation, small as it is, to get something going up here to see if we can't get back in the tourist business.

We are witnessing and experiencing a very dire shortage of funds, state revenues are down, the sales tax has been lagging, and I understand from a little bit of scuttle-butt that it doesn't look too good for the figures coming in shortly. I would suggest to you that the tourist business and the sales tax has dropped, because to me they have gone hand in hand. When we say the tourist business, we are talking now of four seasons in the State of Maine and we are not just talking of those few summer months. We have seen the ski areas come to the front, many of them having difficulties because the weather is so unpredictable. However, just as sure as you and I are sitting here, there is going to be a season this summer, it should be a good year with the bicentennial celebrations going on, also the olympics in Montreal, which should draw a lot of people here.

Our neighboring Provinces, Quebec, Nova Scotia and New Brunswick are spending money like it is going out of style to get these American dollars in their area.

Thank goodness we border on them, because they have to go through Maine in order to get there.

Again, I just want to make it known that I back this letter or recommendation, at least, wholeheartedly and I hope that any of you that have any feelings would lend your support and input to it now and please read the letter.

Mr. Palmer of Nobleboro was granted unanimous consent to address the House.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to say "Amen" to the statement made by Representative MacLeod of Bar Harbor. I would add to that a fact that I heard the other day that a very fine national institution, or association, sent to our state and asked for a display to be made at a convention and we had to write back and say that we had nothing we could offer them. Here we are vacationland, and this being the second largest industry we have in the State of Maine, and no facility at all to promote it. I think it is about time we faced up to a very serious problem.

On motion of Mr. Rideout of Mapleton, Adjourned until ten o'clock tomorrow morning.