

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh  
Legislature*

OF THE

STATE OF MAINE

1975

KENNEBEC JOURNAL  
AUGUSTA, MAINE

SENATE

Monday, May 5, 1975

Senate called to order by the President.

Prayer by the Honorable Bennett D.

Katz of Augusta:

Dear Lord, as we face a brand new week with its own set of particular problems, may we keep an abiding faith in Thee and in Thy righteousness. May we maintain a sense of good will, a sense of good humor, and above all a sense of humor, lest we become arrogant in the setness of our ways. Amen.

Reading of the Journal of Friday, May 2, 1975.

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

Bill, "An Act Relating to Sales Tax Interest and Penalties." (H. P. 1550) (L. D. 1867)

In the House April 29, 1975, Passed to be Engrossed.

In the Senate May 1, 1975, Indefinitely Postponed, in non-concurrence.

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

On motion by Mr. Speers of Kennebec, the Senate voted to Insist and Join in a Committee of Conference.

**Joint Order**

**STATE OF MAINE**

In The Year Of Our Lord One Thousand Nine Hundred And Seventy-five.

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Maurice Hilton of Pownal Recipient of The Leather Industries of America 15th Annual American Shoe Designers Award

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. (H. P. 1558)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

**Joint Order**

**STATE OF MAINE**

In The Year Of Our Lord One Thousand Nine Hundred And Seventy-five.

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

David Zobel of Gray  
1975 Cumberland County  
Spelling Bee

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. (H. P. 1559)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

**Orders**

On motion of Mr. Curtis of Penobscot,

WHEREAS, the public interest requires that effective and uniform procedures be established to regulate the manner in which administrative agencies conduct their business; and

WHEREAS, the Department of the Attorney General, in cooperation with the Maine Bar Association, is currently involved in a project to develop a uniform administrative code to apply to all administrative agencies; and

WHEREAS, the Committee on State Government has considered several bills concerning the procedures of administrative agencies; and

WHEREAS, the Department of the Attorney General and the Maine Bar Association have offered their report and related research to the Committee to assist it in developing a comprehensive Administrative Procedures Act; now, therefore, be it

Ordered, the House concurring, that the Legislative Council direct the Joint Standing Committee on State Government to study the subject matter of L.D. 910, "AN ACT to Require that Magnetic Tape Recordings be Made of all Public Deliberations of Appointive Boards and Commissions;" L.D. 1022, "AN ACT to Make Administrative Regulations Available to the Public;" L.D. 1082, "AN ACT to Require Review of Proposed State Regulations by Local Units of Government;" L. D. 1775, "AN ACT to Insure Citizen Participation in the Promulgation, Amendment and Repeal of Agency Rules;" and L.D. 1784, "AN ACT to Insure Citizen Participation in the Promulgation, Amendment and Repeal of Agency Rules;" and be it further

ORDERED, that the Joint Standing Committee on State Government coordinate its study with the Department of the Attorney General and the Maine Bar Association to develop a comprehensive Administrative Procedures Act; and be it further

ORDERED, that such agencies or departments as may be determined by the Joint Standing Committee on State Government be authorized and respectfully directed to provide the Committee with such information, technical advice and assistance as the Committee deems necessary to carry out the purposes of this Order; and be it further

ORDERED, that the Joint Standing Committee on State Government report its findings together with any proposed legislation to the next special or regular session of the Legislature; and be it further

ORDERED, that upon passage of this Order, in concurrence, that copies of this Order be transmitted forthwith to the Department of the Attorney General and the Maine Bar Association as notice of the pending study. (S. P. 511)

Which was Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. CURTIS: Mr. President and Members of the Senate: This is an order which is a result of some work done by the

State Government Committee because we had had a number of bills presented to us regarding administrative actions and control, and publishing of rules and regulations in taking of magnetic tape recordings of public meetings, and all this sort of legislation. Hopefully, through this study, which is printed in full in the calendar, we will be able in the State Government Committee to come forward with some legislation which would require that effective and uniform procedures be established to regulate the manner in which administrative agencies conduct their business.

The State Government Committee would coordinate its study with the Department of the Attorney General and with the Maine Bar Association, which are currently involved in a project to develop a uniform administrative code which would apply to all administrative agencies.

I think perhaps it is the common order for someone to table this until all these orders can be taken up at some time, but I did want to alert you to what was intended by the order.

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

Thereupon, on motion of Mr. Speers of Kennebec, tabled pending Passage.

**Committee Reports**

**House**

The following Ought Not to Pass reports shall be placed in the legislative files without further action pursuant to Rule 17-A of the Joint Rules:

Bill, "An Act to Increase Salaries of County Officers of York County." (H. P. 1185) (L. D. 1483)

Bill, "An Act Concerning Abatement of the Property Tax on Certain Camps in the Unorganized Territory Owned by Persons 65 Years of Age or Older." (H. P. 1288) (L. D. 1572)

Bill, "An Act to Reduce the Residence Requirement for Qualification for a Veteran's Tax Exemption on his Estate." (H. P. 1317) (L. D. 1634)

Bill, "An Act to Exempt from the Sales Tax Sales to Private Transportation Companies of Buses used Primarily to Transport Pupils and of Parts for those Buses." (H. P. 1355) (L. D. 1657)

Bill, "An Act Relating to Certain License Requirements for Class A Restaurants under the State Liquor Laws." (H. P. 859) (L. D. 1043)

Bill, "An Act to Prohibit Certain Liquor Advertising Signs on the Premises of Retail Liquor Licensees" (H. P. 955) (L. D. 1194)

Bill, "An Act to Require Licenses for Employees of Malt Liquor Wholesalers." (H. P. 1021) (L. D. 1300)

Bill, "An Act Concerning the Time Period after the Last Permitted Sale of Liquor During which a Licensee May permit the Consumption of Liquor on his Premises." (H. P. 1022) (L. D. 1301)

Bill, "An Act to Make the Price of Liquor Sold to State Licensees Uniform Throughout the State." (H. P. 1109) (L. D. 1386)

**Leave to Withdraw**

The Committee on Local and County Government on, Bill, "An Act to Authorize all Counties to Operate Solid Waste Collection and Disposal Systems." (H. P. 999) (L. D. 1270)

Reported that the same be granted Leave to Withdraw.

The Committee on Taxation on, Bill, "An Act to Exempt Sales of Gravestones from

the Sales and Use Tax." (H. P. 795) (L. D. 968)

Reported that the same be granted Leave to Withdraw.

The Committee on Taxation on, Bill, "An Act to Exempt the Young Men's Christian Association and the Young Women's Christian Association from the Sales Tax." (H. P. 1320) (L. D. 1639)

Reported that the same be granted Leave to Withdraw

The Committee on Taxation on, Bill, "An Act to Exempt Mobile Homes from the Sales Tax." (H. P. 1403) (L. D. 1696)

Reported that the same be granted Leave to Withdraw.

The Committee on Liquor Control on, Bill, "An Act to Allow On-premise Consumption of Wine in Restaurants on Sundays." (H. P. 1229) (L. D. 1536)

Reported that the same be granted Leave to Withdraw.

The Committee on Liquor Control on, Bill, "An Act to Require Licenses for Employees of Malt Liquor Wholesalers." (H. P. 1248) (L. D. 1753)

Reported that the same be granted Leave to Withdraw.

The Committee on Judiciary on, Bill, "An Act Relating to the Municipal Issuance of Concealed Weapons Licenses." (H. P. 452) (L. D. 558)

Reported that the same be granted Leave to Withdraw.

The Committee on Marine Resources on, Bill, "An Act Establishing Classes of Lobster and Crab Fishing Licenses and Imposing a Trap Fee." (H. P. 1298) (L. D. 1595)

Reported that the same be granted Leave to Withdraw.

Come from the House, the reports Read and Accepted.

Which reports were Read and Accepted in concurrence.

#### Change of Reference

The Committee on Judiciary on, Bill, "An Act Revising the Pauper Laws." (H. P. 1172) (L. D. 1473)

Reported that the same be referred to the Committee on Health and Institutional Services.

Comes from the House, the report Read and Accepted and the Bill referred to the Committee on Health and Institutional Services.

Which report was Read and Accepted and the Bill referred to the Committee on Health and Institutional Services in concurrence.

#### Ought to Pass

The Committee on Public Utilities on, Bill, "An Act Extending Eagle Lake Water and Sewer District to the Plantation of Wallagrass." (H. P. 1153) (L. D. 1447)

Reported that the same Ought to Pass.

The Committee on State Government on, Bill, "An Act Authorizing the Use of Facsimile Signature on Certain Documents by the Secretary of State." (H. P. 1270) (L. D. 1570)

Reported that the same Ought to Pass.

The Committee on Public Utilities on, Bill, "An Act to Extend the Territorial Limits of the Hallowell Water District." (H. P. 1311) (L. D. 1589)

Reported that the same Ought to Pass.

The Committee on State Government on, Bill, "An Act Creating the Advisory Committee on State Telecommunications." (H. P. 1443) (L. D. 1744)

Reported that the same Ought to Pass.

Come from the House, the Bills Passed to be Engrossed.

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

#### Ought to Pass — As Amended

The Committee on Marine Resources on, Bill, "An Act to Correct Technical Errors in Laws Relating to Marine Resources." (H. P. 1338) (L. D. 1624)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-229):

Comes from the House, the Bill Passed to be Engrossed as Amended by Committee Amendment "A".

Which report was Read and Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted in concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

#### Ought to Pass in New Draft

The Committee on Local and County Government on, Bill, "An Act Relating to Compensation of Full-time Deputies in All Counties." (H. P. 101) (L. D. 120)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1556) (L. D. 1869).

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 Liquor Control on, Bill, "An Act to Restrict Liquor Control Commission Records of Liquor Violations to Violations which are Less than 5 Years Old." (H. P. 981) (L. D. 1244)

Reported that the same Ought Not to Pass.

Signed:

Senators:

GRAFFAM of Cumberland  
CARBONNEAU of Androscoggin  
DANTON of York

Representatives:

IMMONEN of West Paris  
LIZOTTE of Biddeford  
DYER of South Portland  
MAXWELL of Jay

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass.

Signed:

Representatives:

TWITCHELL of Norway  
FAUCHER of Solon  
PIERCE of Waterville  
RAYMOND of Lewiston  
PERKINS of Blue Hill  
JACQUES of Lewiston

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

Which reports were Read.

Thereupon, on motion by Mr. Danton of York, tabled and Tomorrow Assigned, pending Acceptance of Either Committee Report.

#### Divided Report

The Majority of the Committee on Election Laws, on, Bill, "An Act to Provide a Uniform Filing Deadline for Candidates for State and National Office within the State of Maine." (H. P. 1128) (L. D. 1404)

Reported that the same Ought to Pass.

Signed:

Senators:

CORSON of Somerset  
BERRY of Cumberland

O'LEARY of Oxford

Representatives:

KENNEDY of Gray  
DURGIN of Kittery  
MACKEL of Wells  
BIRT of E. Millinocket  
BUSTIN of Augusta  
TALBOT of Portland  
BOUDREAU of Portland

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

Signed:

Representatives:

CALL of Lewiston  
SHUTE of Stockton Springs

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

Which reports were Read.

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

Mr. CLIFFORD: Mr. President, I wonder if one of the members of the committee would explain what the bill does?

The PRESIDENT: The Senator from Androscoggin, Senator Clifford, has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Somerset, Senator Corson.

Mr. CORSON: Mr. President, what the bill does is pretty much explained in the title. It does set up a uniform filing date, and the effect it has is that it says all petitions, nomination petitions, whether they be political party nominating petitions or petitions circulated to run as an independent candidate, must be filed on the same date, which is currently the first of April. In other words, it moves the independent filing date from primary day back to the first of April so it is uniform with party candidates.

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

Mr. CLIFFORD: Mr. President, knowing the outcome of this bill, I think that this is a bad time to be moving toward restriction of independent candidates. It would seem to me that this could be interpreted as the political parties attempting to shut out those who would run as independents. I don't think this is the proper time to be doing that, and I would just request a division. Thank you, Mr. President.

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

Mr. KATZ: Mr. President, I would like to inquire through the Chair, as I am not sure that I understood the implications, does this bill and the report of the committee indicate that all candidates, whether they are Republicans, Democrats or Independents, must make their decision as to whether they are going to be candidates at a uniform and identical time on the calendar?

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

The Chair recognizes the Senator from Somerset, Senator Corson.

Mr. CORSON: Mr. President, the Senator from Kennebec, Senator Katz, is correct in his question. It does provide that they all must make the decision at the same time. It doesn't give any advantage to anyone else. It simply says you have to have your mind made up by the first of April if you are going to run.

The PRESIDENT: Is it now the pleasure

of the Senate to accept the ought to pass report of the committee?

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President, I would request a division.

The PRESIDENT: A division has been requested. Will all those Senators in favor of accepting the ought to pass report of the committee please rise in their places until counted. Those opposed will please rise in their places until counted.

A division was had. 21 having voted in the affirmative, and six having voted in the negative, the Majority Ought to Pass Report of the Committee was Accepted in concurrence, the Bill Read Once and Tomorrow Assigned for Second Reading.

#### Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act to Require Further Notice of Free Choice of Insurance." (H. P. 372) (L. D. 466)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1547) (L. D. 1864).

Signed:

Senator:

JOHNSTON of Aroostook  
Representatives:

CLARK of Freeport  
BOUDREAU of Portland  
BYERS of Newcastle  
TIERNEY of Durham  
PEAKES of Dexter  
HIGGINS of Scarborough

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

Signed:

Senators:

THOMAS of Kennebec  
REEVES of Kennebec

Representatives:

RIDEOUT of Mapleton  
BOWIE of Gardiner  
PIERCE of Waterville  
DeVANE of Ellsworth

Comes from the House, the Majority report Read and Accepted and the Bill and accompanying papers Indefinitely Postponed.

Which reports were Read.

Thereupon, on motion by Mr. Thomas of Kennebec, the Minority Ought Not to Pass Report of the Committee was Accepted.

(See Action Later in Today's Session)

#### Senate

The following Ought Not to Pass reports shall be placed in the legislative files without further action pursuant to Rule 17-A of the Joint Rules:

Bill, "An Act to Authorize Bond Issue in the Amount of \$2,900,000 for the Construction of Facilities for the Maine Public Broadcasting Network." (S. P. 263) (L. D. 862)

Bill, "An Act Relating to the Procedure for Obtaining Absentee Ballots." (S. P. 330) (L. D. 1116)

Bill, "An Act to Appropriate Additional Funds to Municipalities Operating Public Libraries." (S. P. 382) (L. D. 1233)

Bill, "An Act to Provide Funds for the Attorney General to Assist District Attorneys in the Prosecution of Criminal Cases." (S. P. 386) (L. D. 1241)

Bill, "An Act to Provide Reimbursement to Municipalities for Labor Costs of General Assistance Recipients Employed by the Municipalities." (S. P. 394) (L. D. 1292)

Bill, "An Act to Provide for Reimbursement of General Assistance

Costs for Nonresidents of Municipalities." (S. P. 395) (L. D. 1293)

Bill, "An Act Prohibiting Candidates and their Immediate Families from Notarizing Absentee Ballots." (S. P. 399) (L. D. 1285)

Bill, "An Act Establishing a Commission on Criminal Data System Policy." (S. P. 448) (L. D. 1559)

#### Leave to Withdraw

Mr. Berry for the Committee on Health and Institutional Services on, Bill, "An Act Relating to the Advertising and Posting of Drug Prices." (S. P. 97) (L. D. 353)

Reported that the same be granted Leave to Withdraw.

Mr. Collins for the Committee on Veterans and Retirement on, Resolve, Providing a Minimum Service Retirement Allowance under the State Retirement Law for Leonard Sprague of Machias. (S. P. 367) (L. D. 1170)

Reported that the same be granted Leave to Withdraw.

Mrs. Cummings for the Committee on Public Utilities on, Bill, "An Act Certifying Persons to Evaluate Private Sewage Disposal Systems." (S. P. 392) (L. D. 1282)

Reported that the same be granted Leave to Withdraw.

Mr. Jackson for the Committee on Local and County Government on, Bill, "An Act Relating to Payments by the Town of York to York Harbor Village Corporation." (S. P. 457) (L. D. 1561)

Reported that the same be granted Leave to Withdraw.

Which reports were Read and Accepted. Sent down for concurrence.

#### Ought to Pass

Mr. Graham for the Committee on State Government on, Bill, "An Act to Provide for the Appointment of Deputy District Attorneys." (S. P. 321) (L. D. 1098)

Which report was Read.

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

Mr. SPEERS: Mr. President, I would ask a question through the Chair to any member on the Committee of State Government as to the import of this particular bill. In reading down through it, I note that the full-time assistant district attorney who will be designated as the deputy district attorney is to receive an increase in salary presumably for performing additional duties. It would seem to me that an individual that would be designated as a deputy perhaps would not necessarily need an increase in salary, and I am wondering specifically whether that increase is going to be as much as the district attorney or whether it will be something somewhat less. I note that the bill states \$20,000, and I believe the salary of the district attorney is \$23,500. However, the last sentence of the bill does read: "That he shall be paid in the same manner as provided for the payment of district attorneys."

The second question that I would have regarding the bill is what the definition of "in the absence of the district attorney" shall be. Will he have to be out of the district? Does he have to be out of state? Or is the requirement that he simply not be available at that moment in the particular courtroom or particular office? I would be a lot happier with the bill if there were not an increase in salary involved in it and if that absence of the district attorney were more clarified.

The PRESIDENT: The Senator from Kennebec, Senator Speers, has posed a question through the Chair which any Senator may answer if he so desires.

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President and Members of the Senate: I would like to respond to the questions. On the first one, the State Government Committee did not intend to increase the salary of the acting or deputy district attorney. When the bill went out of committee it had an amendment on it, and I would inquire of the Secretary if that amendment is still on it? From the calendar it would appear it was not included.

The PRESIDENT: The Chair would advise the Senator in the negative, it is not included.

Mr. CURTIS: Well, Mr. President, there should be an amendment on it. It is intended to be ought to pass as amended. The amendment takes out any increase in salary for the person who would be designated. So I would ask at the conclusion of this discussion on the matter if someone could table it so I can trace that down, but it did go out of committee with an amendment on it.

The second item regarding when the person would be able to act in the absence, I perhaps would refer the question to the sponsor of the bill, the Senator from Androscoggin, Senator Clifford, because he would be more familiar with the precise reasons that it is necessary to have somebody who can actually sign and make approvals as district attorney.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I would have no objection to the amendment as proposed by the committee and which I assume will be presented by the good Senator from Penobscot, Senator Curtis. However, I do want to make it clear that there was no intent in the bill to have any more state monies involved, because the law as it is written gives the district attorney a certain budget and he has a certain amount of discretion to work within that budget. The original intent was to lift the maximum salary of the deputy, the person he would designate as his deputy, within his operating existing budget.

I think that the problem at which this bill is directed is that the absence of the district attorney sometimes leaves no one in charge, and this could be outside of the district or within the district in a different county, so that oftentimes the county attorney or the elected district attorney is in a different county within the district and certain matters have come up and there is no officially appointed designated deputy within the county where the district attorney is not present, therefore, certain things cannot be done. I don't think it is a very significant or radical change in the situation, but I think it is intended to include certain situations when the district attorney is still within the district but not within the county where the problem might arise. I would certainly hope that this could be tabled and the amendment put on to take care of the problem as seen by the State Government Committee and as pointed out by the good Senator from Kennebec, Senator Speers. Thank you, Mr. President.

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.

Mr. Curtis for the Committee on State Government on,

Bill, "An Act to Clarify Provisions Concerning Travel Expenses of Members of Boards and Commissions." (S. P. 385) (L. D. 1240)

Reported that the same Ought to Pass.

Mr. Johnston for the Committee on Business Legislation on,

Bill, "An Act Concerning the Fee for a First-time Real Estate Broker's License." (S. P. 404) (L. D. 1289)

Reported that the same Ought to Pass.

Mr. Cyr for the Committee on Public Utilities on,

Bill, "An Act to Amend the Charter of the Aroostook-Prestile Treatment District." (S. P. 467) (L. D. 1562)

Reported that the same Ought to Pass.

Mr. Huber for the Committee on Appropriations and Financial Affairs on,

Bill, "An Act Relating to the Osteopathic Student Loan Fund." (S. P. 342) (L. D. 1144)

Reported that the same Ought to Pass.

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

#### Ought to Pass-As Amended

Mr. Thomas for the Committee on Business Legislation on,

Bill, "An Act Concerning the Definition of Monthly Billing Cycle under the Maine Consumer Credit Code." (S. P. 162) (L. D. 536)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-115).

Mr. Curtis for the Committee on State Government on,

Bill, "An Act Redesignating the Department of Health and Welfare as the Department of Human Services and the Bureau of Human Services as the Bureau of Resource Development." (S. P. 428) (L. D. 1394)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-117).

Mr. Curtis for the Committee on State Government on,

Bill, "An Act to Establish Compensation for District Court Bailiffs for Work at Other Than Regular Hours." (S. P. 409) (L. D. 1291)

Reported that the same ought to Pass as Amended by Committee Amendment "A" (S-116).

Which reports were Read and Accepted and the Bills Read Once. Committee Amendments "A" were Read and Adopted and the Bills, as Amended, Tomorrow Assigned for Second Reading.

#### Divided Report

The Majority of the Committee on Labor on,

Bill, "An Act Relating to Weekly Compensation Paid Under the Workmen's Compensation Law." (S. P. 226) (L. D. 758) 758)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-118).

Signed:

Senators:

ROBERTS of York  
PRAY of Penobscot

Representatives:

SPROWL of Hope  
FLANAGAN of Portland  
LAFFIN of Westbrook  
MARTIN of St. Agatha  
SNOW of Falmouth  
TIERNEY of Durham  
CHONKO of Topsham

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

Signed:

Senator:

McNALLY of Hancock

Representative:

TARR of Bridgton

Which reports were Read.

Thereupon, on motion by Mr. Speers of Kennebec, tabled pending Acceptance of Either Committee Report.

#### Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act Relating to Motor Vehicle Excise Tax." (S. P. 293) (L. D. 1018)

Reported that the same Ought Not to Pass.

Signed:

Senator:

MERRILL of Cumberland

Representatives:

DRIGOTAS of Auburn  
TWITCHELL of Norway  
SUSI of Pittsfield  
IMMONEN of West Paris  
DAM of Skowhegan  
COX of Brewer  
MULKERN of Portland

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass.

Signed:

Senators:

WYMAN of Washington  
JACKSON of Cumberland

Representatives:

MORTON of Farmington  
MAXWELL of Jay  
FINEMORE of Bridgewater

Which reports were Read.

Mr. Jackson of Cumberland then moved that the Senate accept the Minority Ought to Pass Report of the Committee.

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

Mr. MERRILL: Mr. President and Members of the Senate: I would urge that the motion of the Senator from Cumberland, Senator Jackson, not be accepted, and I would ask for a division when the vote is taken. We know that the majority of the committee thought this bill ought not to pass.

What the bill does is take away the requirement that corporations register their vehicles in the towns where they reside officially as a corporation. It leaves the requirement that individuals follow that procedure. The effect of this, I think, could be some results in terms of the collection of excise taxes that would not be desirable.

Some of the equipment, particularly construction equipment, that is owned by these large corporations has to be subject to appraisal. The present situation has it that the person has no choice in which town that equipment will be appraised in, and I think that is a desirable situation. In the past when this residence requirement wasn't forced and wasn't enforced the situation that often developed, according to the testimony that we had before our

committee, was that people that owned a large amount of this equipment would actually negotiate with the towns as to what this equipment would be valued at. The result, as can be seen quite clearly, is that they would end up paying a lot less excise tax on this equipment than the actual value of that equipment would justify.

I don't think it is a good idea to allow people to choose where to pay their tax. Some of this represents a great deal of money, and the town may be so pleased to be able to tax it at just half its value that the town would say the equipment was kept there, as it may be for a good part of the year, and the result would be the people would end up paying less excise tax than they lawfully should. I think we have a good system now, and I think it is a system that we should see to it that it is carried through and enforced, and not watered down as this bill would do.

Also, I am a bit troubled by setting up a double standard as this bill would do. If I owned some construction equipment and was not incorporated I would have to register that in the place where I resided. If I incorporated, I could start going from town to town negotiating the best deal. I don't think that that is a desirable inequity to build into our tax laws either. So I would ask when we have the division that we vote against the motion of the Senator from Cumberland, Senator Jackson.

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

Mr. JACKSON: Mr. President and Members of the Senate: The good Senator from Cumberland, Senator Merrill, is right on one aspect, but the only one he brought out was the construction companies. I think we have to go a little further than construction companies. We have the trucking companies, we have the fleet ownership of automobiles, and things of this nature.

Now, these people or these companies utilize the highways in these towns in which they are housed. Some of these highways are not state owned highways; some of these are town roads, state aid roads, and towns have to appropriate the money to upkeep these roads. Now, I feel personally that as long as this happens that the towns should have a piece of the action, so to speak. I think they should have the opportunity to exercise the right to excise tax these vehicles in these towns and have them registered.

It was brought out in the committee that some of these construction companies or some of these larger companies could bargain for low excise rates, but as far as the automobiles go and the trucking industry, I wouldn't assume there would be too much bargaining going on. We have the books, which are supposed to be uniform throughout the state, which all the excise tax clerks or the town clerks use in the manner to describe the right amount of money for the excise tax.

Again, I would just say I think that it deserves consideration because these people are using the highways where these vehicles are housed, so to speak, and not being excised. We will take, for example, one company in Portland which might have 40 different locations throughout the state and they are excised in the Town of Portland. Why should the Town of Portland receive all the excise tax when these smaller municipalities are housing these vehicles and their highways are

being used? I would urge the members of this body go along with my motion.

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

Mr. CURTIS: Mr. President and Members of the Senate: This is a bill that I sponsored, and it is a similar bill to what I sponsored in previous sessions. I am delighted to see the majority of the members of the Senate who are on the Taxation Committee thought it was about time that we eliminated the double standard.

I would suggest that the double standard exists now in the state law because foreign corporations; that is, foreign to the State of Maine, corporations which are incorporated in Rhode Island or Massachusetts or New Hampshire, and which keep their equipment, their trucks and equipment in Maine — usually this will be construction equipment, or it might be long-distance trucks for moving goods — pay the excise tax in Maine where those trucks and equipment is primarily and usually housed. But if the corporation is a Maine corporation with its headquarters and its corporate residence in some municipality in Maine, then that municipality, no matter which municipality it may be, gets all of the excise tax raised from all of the trucks belonging to that corporation.

If you would like the specific background of this bill, I will explain how I got to be interested in it. In Orono we used to have a company called Page Construction Company. It was a rock crushing company and it sold out to a larger outfit some time ago, the Cianbro Company. And in the process of selling out, Orono lost all of the excise taxes that we used to get on these really heavy trucks, cement mixing trucks and rock crushing trucks, and other sorts of equipment to the town of Pittsfield where Cianbro is incorporated. I think that is fine for Pittsfield but it is not very good for Orono. In the Orono situation we still have similar discrepancies, and I only using our roads, costing us expenses, and so forth, but we are unable to tax them. Now, there are other communities which have similar discrepancies, and I only want to explain this to you because it is a lot easier to understand when you have a specific example here. So the object is to eliminate the double standard, permit those towns which are impacted by the presence of heavy duty equipment most to obtain some excise taxes from them.

The second thing is that it has been suggested that the companies, the corporations, will go town shopping and negotiating with tax collectors to see where they can get the best deal for excising their equipment. Well, I would suggest that that is just plain illegal and if it is done anyplace, if it has been done in the past, it has been done underhanded and illegally, and I would suggest that if we pass this bill and it is done in the future, that the town official which does that is subject to serious penalties. I hope that you will agree and vote that this bill ought to pass.

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

Mr. CIANCHETTE: Mr. President and Members of the Senate: Since my Town of Pittsfield has been mentioned and the company of Cianbro has been mentioned, maybe a little word of explanation would be in order. I might mention that maybe the Town of North Waterford would be involved too in a similar situation.

There are a number of questions that have to be raised when you consider passing this type of legislation. We will take the Cianbro Company, for example, and the company has seven matching plants, concrete plants, where mixer trucks work out. These trucks are obviously on wheels and they go where the work is when the work is there. We don't know and there is no one who knows where those individual trucks may be working that year, if they are going to be in Orono, or if they are going to be in Fairfield, North Waterford, Canton, or where they might be. You pick April 1st as the date that you excise these trucks, you pick the date that they registered and that is the day you excise those trucks in that town, and it looks like that could be a difficult situation. I certainly agree with the Senator from Penobscot, Senator Curtis, that the Cianbro Corporation certainly would not be involved in going around negotiating with towns for the best rate, but there may be some companies that would.

There is another whole item that hasn't been covered yet that I think you need to consider. This again talks about construction equipment, construction equipment like bulldozers, graders, front end loaders, those vehicles that travel on a public way, must be registered. If they are registered then they must have an excise tax. Where do you pay the excise tax on that piece of equipment?

There is another area that allows a corporation to excise its equipment in lieu of property taxes. I think here probably is the largest disparity in the bill and the most difficult administrative proceedings. Right now the Cianbro Corporation presents a list of all of its equipment to the Town of Pittsfield, and anything that is not excised is charged as property tax. I am sure the Cianbro Corporation is not the only corporation that does it this way. If the local assessor is on the ball at all he will demand this and you must give your list of equipment, and then he can see what has not been excised and is charged property tax. I ask you who in the world is going to determine that there is any tax being paid on this equipment at all if it is allowed to be spread out over the state and the tax happens to be collected when they can catch up with it? It would be an administrative nightmare, and I suggest that there would be many people taking advantage of the situation, and it is something that would be almost, in my way of thinking, unenforceable.

I am sure that there may be some thoughts going around that here is this guy standing up here trying to protect his interest in Cianbro, and I want to tell you that is not a fact. I would suggest that if anybody is really interested that they go and look at the books in the Town of Pittsfield and see what we pay for excise tax, go to other towns where there is other equipment and check what excise tax was being collected on those vehicles before Pittsfield started collecting, and I think you will see that in almost every case, and I think every case, that the Town of Pittsfield collects more. I offer you, before you start thinking any ill thoughts about me, to check that out please, because if you know Herb Hanson — he used to be here in the legislature — he is a pretty thorough guy and a pretty strongheaded fellow, and he knows what the stuff is worth. Believe me, Cianbro is paying in Pittsfield, I am not here to protect those interests; I am here to protect the law that is a pretty good law now, and by doing this to allow Orono

to collect some excise taxes and North Waterford to collect some excise taxes that now Pittsfield is collecting, you are going to be sacrificing a great deal and creating many loopholes in the tax law. Believe me, that is true, and I guess, while I am on my feet, I would move the indefinite postponement of this bill.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I would rise to agree with the Senator from Cumberland, Senator Merrill. I think the bill has some surface appeal when you say that the vehicles are going to be taxed in the communities where they are located. However, I think we have got to realize that a good deal of the roads in Maine are either state roads or state aid roads, so I think that on closer analysis that argument is not as strong as it would appear to be.

I think that the discriminatory or discrimination argument really is a valid one. The good Senator from Penobscot, Senator Curtis, has pointed out that out-of-state corporations pay the excise tax in the municipality where the vehicles are located. That is true because that is the only way to work the law in out-of-state corporations. But the discrimination between the individual doing business as an individual, or the partnership and the corporation, seems to me doesn't make any sense and that we ought to have a standard which is the same for both.

I think the reason why I am against the bill, I guess, most of all is because it seems to me the way the law is now it encourages small businesses to incorporate, and I think in the economic atmosphere in which we are working we should do nothing to discourage that, and we should do nothing to make it more difficult for the small corporation to run its business to have to run around the state and pay its excise taxes in different parts of the state, and I would support the motion to indefinitely postpone. Thank you, Mr. President.

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

Mr. MERRILL: Mr. President, I would just like to say a couple more words about this bill. First of all, in reference to the C. M. Page Company, I am personally a friend of the previous owner of that company, Pete Page, and used to drive for him. It is interesting that that example was pointed out because the C. M. Page Company used to have a big batching plant in Bangor, and they kept most of their trucks there for a long period of time when they were working on the military construction down in Bangor, and it would be very easy for a situation like that to develop again or to have it in some other place.

As a matter of fact, I was looking only at the question of use of roads. At the time I drove for Pete Page one summer we spent a lot more time driving on Bangor roads than we did on Orono roads. There isn't necessarily any connection between where the trucks are kept and where most of the road miles are put on, and I don't really think that that argument holds up under close analysis.

The major reason that I reported out as I did on this bill is that I was impressed by the people that I had a chance to talk to that are in the business of operating big fleets of vehicles of one kind or another, who asked that we not put them back in a

situation where they find their competitors going around and shopping for favorable tax treatment and they are faced with the awful decision of whether to do the same practice, which I admit is devious and really goes against the intent of the law, or to be in a bad competitive situation. That is the situation we would put these people in that own these big fleets of vehicles; they would be competing with people who are engaged in this practice, and they would have the awful decision of whether to stick with the letter of the law or whether to try to engage in the same practice to put themselves in the same competitive situation.

I don't think this would be a good change in the law. I think the result of it would be to introduce a little more chaos into the situation and to move away from taxing these vehicles at their actual worth.

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

Thereupon, on motion by Mr. Speers of Kennebec, tabled and Tomorrow Assigned, pending the motion by Mr. Cianchette of Somerset that the bill be indefinitely Postponed.

#### Second Readers

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

##### House

Bill, "An Act to Establish County Commissioner Districts in Cumberland County." (H. P. 223) (L. D. 279)

Which was Read a Second Time.

Thereupon, on motion by Mr. Berry of Cumberland, tabled and Tomorrow Assigned, pending Passage to be Engrossed.

##### House — As Amended

Bill, "An Act to Validate the Election of Municipal Officials in the City of Hallowell in 1971 and 1973." (H. P. 1310) (L. D. 1592)

Which was Read a Second Time and Passed to be Engrossed, as Amended, in concurrence.

##### Senate

Bill, "An Act Concerning the Jurisdiction of the Courts." (S. P. 374) (L. D. 1201)

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 Cruelty to Animals. (S. P. 261) (L. D. 858)

An Act Prohibiting County Commissioners, Municipal Officers and School Directors from Appointing Themselves to Certain Offices. (S. P. 497) (L. D. 1844)

An Act to Facilitate the Incorporation of New Towns. (S. P. 500) (L. D. 1846)

An Act Relating to the Shipment of Dogs and Cats and Prohibiting the Use of Dogs or Cats in Commercial Promotions. (H. P. 238) (L. D. 294)

An Act to Provide Excise Tax Refund for Construction and Operation of Breweries within the State. (H. P. 369) (L. D. 463)

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

An Act Making a Supplemental Appropriation for the Supplemental Security Income Programs for the Purpose of Increasing the Base Rate for

Boarding Home Care. (H. P. 477) (L. D. 597)

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

An Act to Increase the Bonded Debt Limitation of the Maine State Housing Authority's Mortgage Purchase Programs. (H. P. 584) (L. D. 723)

An Act Relating to the Release of Mentally Disordered Persons. (H. P. 719) (L. D. 895)

An Act Providing for a State Developmental Disabilities Planning and Advisory Council. (H. P. 871) (L. D. 1077)

An Act Relating to the Location of Town Meetings. (H. P. 1532) (L. D. 1848)

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

An Act to Change Weights and Related Provisions for Commercial Vehicles. (H. P. 1223) (L. D. 1211)

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

Mr. REEVES: Mr. President, I ask if it would be in order to have a roll call vote taken on this item?

The PRESIDENT: The Chair would advise in the affirmative.

Mr. REEVES: I ask for that please.

The PRESIDENT: A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of more than one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, just a few brief words for the record. This of course is the bill which increases the truck weights on the highways of the State of Maine. This bill has been amended, of course, in this body and in the other body to reduce the amount of increase that is allowed in the weights that are being transported over the highways.

The bill contains two very significant additional provisions: one, it does contain significant safety requirements for the trucks that do pass over the highways at the present time and, secondly, it contains most significant changes in the fine structure for overweight vehicles. And I feel that these three things that the bill accomplishes should be on the record lest anyone feel that it just provides for an increase in the weight.

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

Mr. KATZ: Mr. President, I would like to go on record as being opposed to the enactment of this bill. If the driver of a vehicle knowingly and wilfully violates state law on repeated occasions so that according to the Secretary of State's knowledge of his record he has an attitude towards the laws of this state that is very, very clearly not adequate, that driver is removed from the road. The Secretary of State presently has the authority to remove the vehicle from the road and on occasion, it is my understanding in recent years, the Secretary of State has actually lifted the plates off cars of drivers who absolutely refused to obey the law. This truck weight bill should have gone in that

direction, and that is why I am not voting for it.

The PRESIDENT: The pending question before the Senate is the enactment of L. D. 1211, An Act to Change Weights and Related Provisions for Commercial Vehicles. A "Yes" vote will be in favor of enactment; a "No" vote will be opposed.

The Secretary will call the roll.

#### ROLLCALL

YEAS: Senators, E. Berry, Carbonneau, Cianchette, Clifford, Collins, Corson, Cummings, Curtis, Cyr, Danton, Graffam, Greeley, Huber, Jackson, Johnston, Marcotte, McNally, O'Leary, Pray, Roberts, Speers, Thomas, Trozky.

NAYS: Senators, R. Berry, Graham, Hichens, Katz, Merrill, Reeves.

ABSENT: Senators, Conley, Gahagan, Wyman.

A roll call was had. 23 Senators having voted in the affirmative, and six Senators having voted in the negative, with three 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.

Resolve, Authorizing Edward S. Crockett and Dorothy P. Crockett or their Legal Representatives, to Bring Civil Action Against the State of Maine. (S. P. 324) (L. D. 1101)

Resolve, Permitting Norman W. Frost, Jr. of Fryeburg to Practice as a Public Accountant. (S. P. 456) (L. D. 1504)

Which were Finally Passed and, having been signed by the President, were by the Secretary presented to the Governor for his approval.

#### Orders of the Day

The President laid before the Senate the first tabled and Specially Assigned matter:

Bill, "An Act Relating to Application of Payments under the Maine Consumer Credit Code." (H. P. 1065) (L. D. 1345)

Tabled — May 1, 1975 by Senator Johnston of Aroostook.

Pending — Passage to be Engrossed.

(In the House — Passed to be Engrossed)

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

The President laid before the Senate the second tabled and Specially Assigned matter:

Bill, "An Act to Create Hospital Administrative District No. 5 in Piscataquis and Penobscot Counties." (H. P. 1099) (L. D. 1382)

Tabled — May 1, 1975 by Senator Corson of Somerset.

Pending — Passage to be Engrossed.

(In the House — Passed to be Engrossed as amended by Committee Amendment "A" (H-205))

(In the Senate — Committee Amendment "A", Adopted)

On motion by Mr. Speers of Kennebec, tabled and Specially Assigned for May 13, 1975, pending passage to be Engrossed.

#### Reconsidered Matter

Mr. Pray of Penobscot moved that the Senate reconsider its prior action whereby on Bill, "An Act to Require Further Notice of Free Choice of Insurance", (H. P. 372) (L. D. 466), the Minority Ought Not to Pass Report of the Committee was Accepted.

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



Mr. REEVES: Mr. President, I signed the "Minority Ought Not to Pass Report. I feel that the purpose of this bill is to insure a free choice of insurance when someone is obtaining a mortgage on their house. In the past there had been complaints that certain banks steered certain customers to certain insurance companies. Where I feel this practice is not a good one is were I think it is limited to selected situations, and I don't feel that the law as it is written is enforceable or would correct that situation, and I urge the Senate not to reconsider this bill.

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

Mr. THOMAS: Mr. President, I also signed the report with Senator Reeves. If you read the bill, it limits the insurance company, which is the part that I was against, and I believe Senator Reeves as well — it limits the insurance company to within a 20 mile radius of the bank, and that particularly affects any person trying to buy a home, obtain mortgage in a Maine bank, who might want to insure with an insurance company across the border. It could create a problem to have it within 20 miles of the bank. It also places regulations on the Superintendent of Insurance who must draw up the forms and ship them to the bank. In other words, it is a waste of time.

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

Mr. PRAY: Mr. President, my intent in moving for reconsideration was so that I could table it for a couple of days because of some questions that were unanswered to me. I would still hope that this body would reconsider it so I could table it for a couple of days and get together with the good Senator Reeves and Senator Thomas and have them explain some of the things that I am worried about.

The PRESIDENT: The pending motion is the motion of the Senator from Penobscot, Senator Pray, that the Senate reconsider its action whereby it accepted the Ought Not to Pass Report of the Committee in reference to L.D. 466. The Chair will order a division. Will all those Senators in favor of reconsidering their action please rise in their places until counted. Will all those opposed to reconsideration please rise.

A division was had. Seven having voted in the affirmative, and 18 having voted in the negative, the motion did not prevail.

The President laid before the Senate the third tabled and Specially Assigned matter:

Bill, "An Act to Increase the Veteran's Property Tax Exemption." (H. P. 1174) (L. D. 1172)

Tabled — May 1, 1975 by Senator Pray of Penobscot.

Pending — Passage to be Engrossed.

(In the House — Passed to be Engrossed as amended by House Amendment "D" (H-224) )

(In the Senate — House Amendment "D", Adopted in concurrence)

On motion by Mr. Speers of Kennebec, retabled and Tomorrow Assigned, pending Passage to be Engrossed.

The President laid before the Senate the fourth tabled and Specially Assigned matter:

Bill, "An Act Relating to Amount of Annual Excise Tax on Railroads." H. P. 1494) (L. D. 1740)

Tabled — May 1, 1975 by Senator Jackson of Cumberland.

Pending — Adoption of House Amendment "C" (H-66).

(In the House — Passed to be Engrossed as amended by House Amendments "D" (H-177) and "C" (H-166) )

Mr. Merrill of Cumberland moved that House Amendment "C" be Indefinitely Postponed.

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

Mr. KATZ: Mr. President, I wonder if someone might explain the implications of House Amendment "C"?

The PRESIDENT: The Senator from Kennebec, Senator Katz, has now posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: The situation that involves one railroad in the State of Maine, the Maine Central Railroad, is a bill that received a lot of attention in our committee. The situation that has developed is rather complicated, and I will try to be as brief as I can. It is that the federal government and the Interstate Commerce Commission have made an attempt to speed up rail transportation by having every railroad company pay a certain amount of money to companies whose cars are on their tracks for a period of time. So if some out-of-state railroad company had a car on the Maine Central tracks, the Maine Central Railroad would have to pay a certain amount of money to that railroad for every day that it was on the track, and vice-versa. The purpose of this is to speed up rail transportation in the United States.

Now, fortunately for the Maine Central Railroad in this given year, they have come out on the plus side of this situation, and as a result of that they have some revenues. Now, this is not income in the traditional sense of the word because it isn't available to the railroad to do with as they want to. They do have to pay a corporate income tax on this, and to the amount that this money is taxed for corporate income taxes they can take that out of the monies thus collected. But beyond that the revenues are dedicated for the railroad for the purchase of new boxcars and new boxcar equipment, so the question was would that be added into the income for figuring out the excise tax which we place on Maine railroads, a tax which takes the place of property tax for these railroad lines, and a tax which the state has put on to put the railroads out of the situation where they have to pay every town the taxes for the property that they have their right-of-ways on.

There was a lot of discussion in the committee, and I think ultimately most of the members of the committee decided to support the bill, keeping in mind all the time that the income tax is being paid on this money because this would have put the railroad into a different tax situation. And it should be pointed out that either way that this bill goes the state will be collecting more money than they would have been otherwise, than they did in the last years from the railroads, but it was thought by the committee that at least for two years, until we have a chance to look at this situation more — and that is what House Amendment "D" does with this bill; it limits this bill to two years, at which time the legislature will take a look at it again — we thought that this, not being

income in the traditional sense, that it shouldn't be added in for the purpose of figuring out this excise tax; that we would look at the situation over two years and make a judgment at that time whether the judgment was correct; I think the feeling being that the situation that the railroads face in the country today, that we didn't want to take any precipitous action to increase this tax on the railroads and thus in any way contribute to the continuing situation of railroad lines having to be discontinued and that sort of thing.

Now, this amendment which was made in the House really has nothing to do directly with the purpose of this bill. I don't know why it was put on and I can't speak to that, but the effect of that would be to take away what is now a twofold tax situation and really puts the railroads pretty much in the situation that they would be if we didn't pass this bill in the first place. I think maybe that was the intent of the amendment, but it isn't directly related to the issue of this bill. I think that the issue before us should be discussed in its pure form, which is whether or not we want to have this money added into the tax situation and not go about changing the whole excise tax structure that the railroads live under at the present time, which is what this amendment would do.

If that is about as clear as mud, I apologize, but this is a difficult situation, and the committee labored for about three working sessions just to try to understand the bill in its present form, let alone this amendment which has been added on.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator O'Leary.

Mr. O'LEARY: Mr. President, as I understand the amendment, it would reduce the amount that would be rebated by approximately \$400,000. However, it is clear as mud, so I move the indefinite postponement of this bill and all of its accompanying papers.

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

Mr. BERRY: Mr. President and Members of the Senate: I would urge you to vote against the motion of the good Senator from Oxford, Senator O'Leary. We have here a matter of the chickens coming home to roost, and I think that Senator Merrill has quite properly explained it. He downgraded his efforts a little bit when he said it was as clear as mud because, if you paid attention, it was quite clear.

There is one point I would like to make in addition to his, and that is that this is a once in a lifetime probable situation, and the committee quite properly has limited, through the other amendment, this tax treatment to a two-year period, at which time it can be reviewed again by the legislature. It is hardly a tax. It is a confiscatory assessment. I think that is a better way to describe it. On the other hand, as Senator Reeves would say, that is a pretty good definition of taxes anyway.

I do feel, however, seriously, that the railroads aren't in any too good shape. As an example of an overregulated operation, I think our American railroads are it. And we here in Maine have a great deal at stake, and particularly, I think, locations at the end of some of the lines, such as Senator O'Leary, Eastport, Calais, Farmington, Bingham, Rockland, name them all that are on the end of these little branch lines. We have a real job to keep them going, and it is going to be real hard on our Maine communities if the railroads do abandon these very, very marginal

branches. As a matter of fact, I question that any of them are even marginal today.

I think the Taxation Committee should be commended tremendously. This isn't a really popular deal. It is, as Senator Merrill indicated, quite confusing too. But this is a one-shot deal. It is in no way a tax on income that we are abating. It is, as I say, a confiscatory one-time tax. This is a tax that hasn't even been levied in the past, so it is not a loss of revenue, which I hope the good Senator from Cumberland, Senator Huber, will take into account when the good day comes.

Incidentally, I have a strong belief that this won't happen again, and I think this legislature would be passing some good legislation if we would defeat the motion and pass the bill, getting rid of the amendment on the way.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator O'Leary.

Mr. O'LEARY: Mr. President, I have had an opportunity to look at a lot of the boxcars and everything that are supposed to be taken care of under this bill, however, the bill confuses me. A couple of weeks ago here Senator Reeves had the right train but he was on the wrong track.

It is interesting to note that this bill came out of committee with a majority of seven Ought to Pass and six Ought Not to Pass, so it perhaps will be a game.

I have done a lot of thinking on this bill, and I will read to you some of my thoughts on it. The effective date states that this act shall be effective commencing with the tax returns filed in 1975 for the calendar year 1974. Then there is the fiscal note which states that "Passage of this legislation will result in the elimination of \$619,000 in excise tax to the State of Maine, resulting from certain rulings by the Interstate Commerce Commission."

Now, this excise tax is paid on their rails that go through the communities where they have no property tax. They pay absolutely no property tax on their rails that pass through these communities. They do pay a property tax on their buildings that may be in a community or on a spur, but this is the only tax that they have. You pay an excise tax on your automobile, and you should get yours back too.

I would submit to the members of this body that whether the State of Maine has or has not already collected this money is not what is important here, but the fact that the Maine Central Railroad is trying to enrich itself to the tune of \$619,000 is. Either way it is money from the state treasury, and this at a time when their profits are away up. It seems to me the Maine Central Railroad is being selfish. It is only because their profits were up that they paid such a tax. It would seem to me that it is rather untimely for them to ask this legislature to even consider such a proposal as this. We are faced with problems of finding enough money for our schools and there are perhaps many programs which should have funding. We are torn between a rise in the income tax or whether we will do as the Governor has asked and place the burden on the municipalities and the property tax. And on top of all these problems we have, the Maine Central Railroad wants us to be Santa Claus.

It is possible I am mistaken, but take a look at what the statement of fact says. "The Interstate Commerce Commission presently restricts two forms of railroad income, incentive per diem and a portion of a recent freight rate increase. In each

case the income is not available for general railroad corporate purposes and cannot be used for dividends, bond interest or benefit of owners or creditors." That is true. This is where they get their boxcars and this is where they pay for their improvements, but it does not deal with the excise tax. Look at the title of this bill, "An Act Relating to Amount of Annual Excise Tax on Railroads", and I would remind you that the fiscal note deals with an excise tax. The statement of fact deals with two altogether different taxes, incentive per diem and a portion of a recent freight rate increase.

If I am correct, and I believe I am, this money, \$619,000, can be used for dividends, it can be used for bond interest, and it can be used for benefits of owners or creditors. To me, this bill is full of contradictions and it is not worthy of our consideration. Thank you. Mr. President, I would ask for a roll call.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, the Senator from Oxford, Senator O'Leary, is dead wrong. This money can't be used for any purposes except boxcars. And the whole question is: are those two items that he has talked about, especially the incentive per diem, are those going to be added in for the purpose of computing the excise tax which the railroads will pay?

I think that this money has been provided for a specific purpose. It isn't income in the traditional sense, it can't be used to pay dividends, it can't be used to pay the stockholders. It can be only used for one specific thing, and it seems to me that this is anything but a raid on the treasury.

I think that we should keep in mind when we talk about this bill and whether or not we should indefinitely postpone it is that there is no question here as to whether or not income tax money, corporate income tax, is going to be paid on this; it is. I think when we start, in essence, boosting and increasing the sources from which we are going to take taxes which aren't based on profit that we are getting into a bad situation when we are dealing with an industry that is in serious trouble in this country, and we are not going to be able to let this industry go down.

Ultimately if this industry, the Maine Central Railroad, gets into the same fiscal problems as the other railroads that we have in this nation, somebody, some taxpayer in one form or the other, is going to have to bail them out because we can't afford to let our railroads go down because our economy depends upon them. And I think it would be very shortsighted of this legislature to defeat this legislation and start the course for the Maine Central that we have seen the Penn Central and other railroads follow.

It would be my hope that we could defeat this motion to indefinitely postpone and then move on to defeat House Amendment "C".

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator O'Leary.

Mr. O'LEARY: Mr. President, I would remind the Senator from Cumberland that I believe it was around the 104th Legislature that there was a bill very much similar to this and it was killed on the next to the last night in the other body. And the gentleman who was the majority floor leader defended that bill right up until that night when he had an

opportunity to read it and find these very same things. Just recently that member of that body was a member of this body, and since a gubernatorial candidate and a man of repute. He could see through this, and I believe we should see through it. All you have to do is just read this bill in its entirety and you can see it.

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

Mr. REEVES: Mr. President, on the chance, as the good Senator from Oxford indicated, that I might have had the right railroad but the wrong track last time, I would like to re-read this paragraph from an item from the Portland Press Herald on April 24th. This is quoting the President of the Maine Central Railroad, Mr. E. Spencer Miller — this is a quote from the newspaper: "We won't have a good year in 1975, Miller said. This may be a break-even year for us. Last year Mine Central had total net income of \$6,091,000 after taxes, highest in its history."

I don't want to see the Maine Central Railroad go down and disappear. On the other hand, I don't think there is any danger of this happening right away.

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

Mr. BERRY: Mr. President, in the past when the Senate had this bill in front of them I was excused from voting on this, and I would ask for the same excuse for the same reasons.

The PRESIDENT: The Senator from Androscoggin, Senator Berry, requests that he be excused from voting on this issue because of an apparent conflict of interest. Is this the pleasure of the Senate?

It is a vote.

Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from Oxford, Senator O'Leary, that this bill, L.D. 1740, "An Act Relating to Amount of Annual Excise Tax on Railroads", be indefinitely postponed. A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of more than one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. A "Yes" vote will be in favor of indefinite postponement; a "Nay" vote will be opposed.

The Secretary will call the roll.

#### ROLLCALL

YEAS: Senators Curtis, Graham, Jackson, O'Leary and Reeves.

NAYS: Senators Berry, R.N.; Carbonneau, Cianchette, Clifford, Collins, Corson, Cummings, Cyr, Danton, Graffam, Greeley, Hichens, Huber, Katz, Marcotte, McNally, Merrill, Pray, Roberts, Speers, Thomas and Trotzky.

ABSENT: Senators Conley, Gahagan, Johnston and Wyman.

A roll call was had. Five Senators having voted in the affirmative, and 22 Senators having voted in the negative, with four Senators being absent and one excused from voting, the motion did not prevail.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, now moves that the Senate indefinitely postpone House Amendment "C". The Chair will order a division. Will all those Senators in favor of the motion of the Senator from Cumberland, Senator Merrill, that House

Amendment "C" be indefinitely postponed please rise in their places until counted.

A division was had. 23 having voted in the affirmative, and 4 having voted in the negative, the motion prevailed.

Thereupon, House Amendment "D" was Read and Adopted in concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

The President laid before the Senate the fifth tabled and Specially Assigned matter:

**RESOLUTION, Proposing an Amendment to the Constitution to Provide for Annual Sessions of the Legislature and to Change the Date of Convening of the Legislature. (H. P. 1510) (L. D. 1827)**

Tabled — May 1, 1975 by Senator Clifford and Androscoggin.

Pending — Motion of Senator Speers of Kennebec to Indefinitely Postpone Senate Amendment "D" (S-108).

(In the House — Passed to be Engrossed)

(In the Senate — Senate Amendment "A" (S-94), Adopted; Senate Amendment "B" (S-95), Indefinitely Postponed).

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

Mr. CLIFFORD: Mr. President and Members of the Senate: Briefly to review what we are talking about, we are talking about an amendment to the Maine Constitution to provide for annual sessions, and this amendment attempts to limit those sessions so that the first regular session will be limited to the first 100 legislative, and not calendar, legislative days. The second regular session will be limited in two ways under this amendment. It will be limited to 50 legislative, and not calendar, legislative days, and also limited in the subject matter which can be taken up. The third part of the amendment retains the right of the legislature to call itself into session upon extraordinary circumstances and limits the number of days of that session to 25 legislative days.

The bill does not — and I think it was mentioned in the debate the other day — limit the governor's right under the constitution to call the legislature into session. That right remains without limit as to days. This does not affect the right of the governor into session.

Just a couple of comments on some of the opponents from the other debate last week. The good Senator from Penobscot, Senator Curtis, said that this is an attempt to deal with the future. I agree with him. This is an attempt to deal with the future, to set the outside limits of time in which a legislature can be in session to hopefully guarantee that the legislature will retain citizen legislatures, working men and women who would be able to serve, and I think very quickly would not be able to serve if the legislature's annual sessions were without limit.

The good Senator from Cumberland, Senator Merrill, discussed the fact that the legislative business is more competent and that bureaucratic agencies write rules and regulations which are oftentimes are unrealistic and do not deal with people's problems as they should, and certainly I would agree with him on that issue. But I submit that it is more important as to who writes the statutes under which the bureaucratic agencies operate, and I submit that if we put no limits on annual sessions that the persons who will be writing the statutes under which the

administrative agencies are going to be operating will not be citizen legislatures; they will be full-time legislatures and they will not be in as close contact with the citizens of Maine as they should be. So I would say that other amendments or rules which tend to limit legislative sessions can be broken by the legislatures themselves. This sets an outside very reasonable on the time in which the legislature can be in session, and I would hope that you would go along with the amendment and vote against the motion to indefinitely postpone. And on that motion, Mr. President, I would request a roll call.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President and Members of the Senate: I go along with the philosophy of this amendment and portions of it, which I hope can be included in another amendment, but as to the limitation of days I think we had a very good example brought forth in the New Hampshire legislature last week, which has a limit on days, limiting the House to so many days and limiting the Senate to so many additional days.

There was an item in the Portsmouth Herald last Thursday night which I intended to cut out and use to read from, but it stated the House has 173 bills to make decisions on before closure Friday evening. And then it went on to tell how three bills had been passed in a lengthy session which hadn't ended until 1 a.m. on that Thursday morning, which after consideration were repealed and sent to the Senate with no decision made whatsoever because of the lack of time. In the article it did sort of ridicule a legislature restricting time of the session when so many bills are so important to the people and for the welfare of the state. I think this would be a very wrong thing to do, to make a limit, even if it is 100 days for the regular session and 50 days for the special session, to make a limit on any date on which we would have to adjourn.

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

Mrs. CUMMINGS: Mr. President, two years ago there was a citizens commission created to go throughout the state and have hearings on whether or not to raise the legislative salaries. Part of the reason for raising our salaries was in order to attract businessmen, attract men and women who still are in very definitely their prime of life as far as their productive years are concerned.

I testified against this bill because the amounts of money that we can be paid really are not going to attract some man or woman who is in the high salary section of their lives. And at one point they said "What do you think would attract these people?" and I allowed that perhaps we would have to have our salaries increased by four times. The media, in its wisdom, reported that night that that was what I was testifying for. But that is beside the point.

I think what we really want to do is to get and attract people who are actively involved in businesses, and that one of the ways that this can be done is to let them realize that there is only a certain length of time that they will be asked to give of their service. I think a better thing even yet would be to limit it to, say, four days at the most of every week, because many men can, with herculean effort, but

nevertheless can, manage to keep their businesses going on three days a week and probably a few nights. I think this is necessary. I think annual sessions are necessary, and I think to limit it is going to make those who are willing to give two and hopefully more years of their lives to their state, it would give them a definite proposal either to their employers or that they themselves would have to argue it with themselves as to whether or not it would be worth their while. I hope this goes through.

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

Mr. SPEERS: Mr. President, I would like to reiterate simply that we are not talking necessarily about the only method by which the length of the session or the items to be considered by a session may be limited. There is another amendment which is prepared and ready to be offered, and I would hope that it would be offered and would support that amendment, limiting the subject matter to be considered in a special or the second annual session of any given legislature.

I think the comments by the good Senator from York, Senator Hichens, point up precisely what has always been the problem with limiting a session to a specific number of days. You cannot legislate and place into the constitution of a state a situation which will be in the best interests of the people of the state for years and years and years to come into the future. There will be and there are instances when a specific number of days simply are not adequate to effectively and responsibly legislate in the best interests of the people, and I think that the suggestion is unworkable and it breeds irresponsibility because, as the good Senator from York mentioned is happening at the present time in New Hampshire, there is legislation that is not being adequately and responsibly considered because simply there is not enough time. Now, if that is the kind of citizen legislature we wish to have here in Augusta, I would submit that it is not in the best interests of the people of the state and that the legislature would not be representing the people.

So I hope that the motion to indefinitely postpone does prevail and that we can get on with considering other methods and other means by which we can speed up the session or limit the subject matter which is to be introduced in the second annual session, but let's not participate in Maine in a charade the way that other states have participated.

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

Mr. BERRY: Mr. President and Members of the Senate: I think that the issue is being a little bit clouded here. The Maine Legislature is probably not going to do anything to limit its session until it has to. And while I commend the good Senator from Kennebec, Senator Speers, in his statement that he has an amendment and that there are measures under way, I have been hearing this tune played for many, many years. I think what we need to do is point a gun at the head of the Maine Legislature and say you are going to get out of here at the end of six months, which is what Senator Clifford's bill provides quite properly. Other states have done this and it works. We are not going to do it until we have to.

I point out that there are two safety

valves here to the objections which have been raised; namely, that the governor can call a special session if it is impossible to finish the regular session, and the legislature itself can continue itself in existence by calling a special session if it sees it cannot adjourn by the deadline.

I think legislation like this is very much in order. As I told the Senate before in the last debate, I have been very much no progress, and I think this is one way, no progress, and I think this is one way, and perhaps the only way, we are going to get it.

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

Mr. CIANCHETTE: Mr. President, I would like to add a few words of support to the amendment, and I am speaking now from personal experience and perhaps am guided by Parkinson's Law. As you probably all know, Parkinson's Law says work expands so as to fill the time available for its completion. I have been practicing that law for a long time, and when I was involved with trying to organize a company and determine how it is going to get its work done on time, we discovered the critical path method of scheduling, which was something new to us, but not new to the industry at all. But the critical path method of scheduling limits the number of days you are going to have to complete a job. And in going through this effort of trying to get the philosophy of a scheduling method sold to our people we heard all the same arguments that we are hearing here this morning.

You know, when you talk about scheduling a sewer job, where you are laying sewer pipes in the streets or in conditions that are unknown, how in the world can you schedule that work because you don't know what you are going to find there. Well, we have learned that the philosophy says that you must schedule that work and you must limit the time available to get this work done or it will just continue and go on and on and on. And I submit to you that there are many companies that have gone broke because they couldn't recognize the need for scheduling.

Now, any project can be scheduled. And I will say that again — any project can be scheduled. Generally, if that schedule is taken seriously, that schedule will be followed and the work will be completed, and completed probably better than any other way. Sure, it is going to take some discipline, it is going to put a little bit more load and a little bit more responsibility on the leadership. I feel the leadership of this legislature is capable of that load, and if given an absolute target date they are going to help schedule this legislature and they are going to do a better job of it. And with the demands on them, I am sure they will meet the challenge.

Now, I don't want to pattern this legislature after New Hampshire, like some have suggested. We know they have problems over there, and I certainly don't want to see this legislature patterned after New Hampshire by any means, and just because they are making some errors over there certainly doesn't mean that we have to make the same ones here.

I couldn't more agree, and I want you to stop and consider what it means to Maine if we are going to have a citizens legislature or if we are going to have a professional full-time legislature. I think now is the time to make that decision, now

is the time to put your name on the line of which way you support it, and believe me, these worries and concerns about not being able to meet a schedule really don't work. That is all the more reason why you need the schedule. Putting this limit on it would help that end, and I hope you vote against indefinite postponement.

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

Mr. MERRILL: Mr. President and Members of the Senate: I think the Senator from Somerset, Senator Cianchette, pointed out the very reason that we shouldn't accept this amendment in his example. It is important to remember here we are talking about means and not ends. I haven't heard any argument here with the end that is being sought by the amendment from the Senator from Androscoggin, Senator Clifford. We are talking about the means. I think that there are means available and, if we have to, we can change the constitution in some ways to make more means available to schedule our work and to see to it that we put together a schedule and that we follow it, and by that method we limit the amount of time that we spend here, which is a desirable goal. It is not the only goal, certainly. Quality has to be the most important goal. But it is very desirable goal for all the reasons put forth. I just can't agree with the method.

I don't think the Senator from Somerset, Senator Cianchette, would want it written in blood that if for one reason or another his business didn't complete the job on schedule that they wouldn't be paid anything for all the work that they had done, or that they would have to take all their equipment and go back to Pittsfield and just receive no compensation. Now, I think that what he pointed out is that by good management in his company they have been able and in almost all instances to meet those schedules, and that is a desirable goal and is one that is one we ought to work towards here, and I think we can improve our methods. But this is a drastic measure. It is more drastic than I think we would want to impose upon our business if we did that sort of scheduling, and I think it is more drastic than we should impose upon this legislature. So I agree with the ends, I disagree with the means, and I hope that we indefinitely postpone this amendment.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I rise to make two points: One is the New Hampshire Legislature. I think it is a poor comparison. They have a 400 member House of Representatives and they have an unworkable situation over there. However, their limitation is the kind of limitation that this is not. Their limitation is 90 calendar days. So that once their legislature convenes, the clock begins to run and they have no control over their scheduling. The calendar is running and they have no control over their scheduling. In this, of course, we are talking about legislative, days, so that the legislature can schedule itself, can schedule committee hearings on days which are not legislative days. This legislature with 100 days could be in session 50 weeks on a two-day legislative session per week basis.

The second item which I rise to address is the other amendment and other methods of controlling the amount of time which a

legislature is in session. That other amendment is under Filing S-96. First of all, it puts absolutely no limit on the first regular session. The legislature for the first year of the biennium could be in session the entire year. And only on the second regular session does the amendment go to limiting the subject matters, and one of those limitations is legislation of an emergency nature admitted by the legislature. I submit to you, Mr. President and Members of the Senate, that that could be any item whatsoever. I think we had an experience in the last legislature, the 106th Legislature, where many items were allowed in for consideration in the special session which were clearly not of an emergency nature. So I say that this is inadequate, and the legislature is going to reform itself on a time basis only when there is an outside limit of legislative days within which it can work.

I would hope that you would vote against the motion to indefinitely postpone and adopt this amendment. Thank you, Mr. President.

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

Mr. CURTIS: Mr. President and Members of the Senate: I would like to speak just briefly in support of the motion to indefinitely postpone this amendment. It seems to me that we have heard a lot about scheduling and so forth, and in my opinion, the best kind of leadership is that which can be directed from the elected leaders of the legislature and also the chief executive. If the chief executive in past years has used less than good discretion in deciding what bills ought to be included in the special session, then that is something that the people of this state have an opportunity to look at.

This year it seems to me that we have got good strong leadership, that we are told last week for scheduling public hearings was this week, and except for a few minor exceptions most of the committees are going to meet that strong direction and we will have our reports out by May 23. That gives us an opportunity to schedule logically and to consider without panic. But I would suggest what would happen if in getting close to the 100 day session, after perhaps logically scheduling the full session, we find out that we have run into a constitutional problem such as we realized the end of last week regarding L. D. 1994? Would the legislature then be thrown into panic or would we have to go to some other tool as has been suggested earlier of disbanding and then coming back into special session? That, I would suggest, is not a logical way to do it. We ought not to write this kind of control into the constitution.

The PRESIDENT: Is the Senate ready for the question. The pending motion before the Senate is the motion by the Senator from Kennebec, Senator Speers, that the Senate indefinitely postpone Senate Amendment "D". A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of more than one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call please rise in their places 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 Speers, that Senate Amendment "D" be indefinitely postponed. A "Yes" vote will

be in favor of indefinite postponement of Senate Amendment "D"; a "No" vote will be opposed.

The Secretary will call the roll.

#### ROLLCALL

YEAS: Senators Corson, Curtis, Graham, Hichens, Huber, Jackson, Katz, Merrill, Speers, Thomas, Trozky.

NAYS — Berry, E.; Berry, R.; Carbonneau, Cianchette, Clifford, Collins, Conley, Cummings, Cyr, Danton, Graffam, Greeley, Marcotte, McNally, O'Leary, Pray, Reeves, Roberts.

ABSENT — Gahagan, Johnston, Wyman.

A roll call was had. 11 Senators having voted in the affirmative, and 18 Senators having voted in the negative, with three Senators being absent, the motion did not prevail.

Thereupon, Senate Amendment "D" was Adopted.

Mr. Speers of Kennebec then moved that under suspension of the rules the Senate reconsider its action whereby Senate Amendment "A" was Adopted.

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

Mr. BERRY: Mr. President, I wonder if we might defer action until we orient ourselves.

The PRESIDENT: The Chair did not understand the question from the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President, I felt that some members of the Senate were trying to identify the Senate Amendment "A" in question before the vote was taken on suspending the rules.

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

Mr. SPEERS: Mr. President, this is under Filing No. S-94. This was an amendment which was introduced by the good Senator from Penobscot, Senator Curtis, which provides for a referendum every eight years regarding the question of annual sessions, and should the referendum be opposed to annual sessions, the Chief Justice of the Supreme Judicial Court is then directed to amend the constitution. I would submit that that is a very strange position, a very strange provision, for any constitution to have to direct the chief justice of any state to amend its constitution. I, therefore, hope the motion to reconsider does prevail so that we can indefinitely postpone this amendment.

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

Mr. CURTIS: Mr. President and Members of the Senate: The question here is not having the Chief Justice of the Supreme Judicial Court of the State of Maine amending the Constitution. That is merely a procedural matter which we have done now at a regular interval so that the constitution is clarified for consistencies and stays up to date, not for any kind of substantive matter, so that is not the issue.

The issue here is whether or not the people should have an opportunity every eight years to vote again on whether or not the legislature should be meeting in annual sessions. I would suggest, as I explained when I introduced this amendment, that the only way the people have an opportunity to take a look at the constitution is when the legislature proposes an amendment. I guess my thinking is somewhat along the line of the

majority in the last vote we had, and that is periodically the people ought to have some control over the legislature. Since we have no initiative process for proposing amendments to the constitution by the people, only the legislature can do that, this is the one check that is provided or proposed for a check on elimination of annual sessions if the people don't want them any more. I would ask that there be a division.

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

Mr. BERRY: Mr. President and Members of the Senate: I would strongly support the position of the Senator from Kennebec, Senator Speers. I think the amendment, while laudable in purpose, has the unworkable provision in it, as he mentioned, that the Chief Justice shall amend the constitution. Regardless of the method, that is not one of the methods that is legally done.

There is nothing to prevent anybody of the 184 legislators introducing an order at any time to rescind this legislation through another vote of the people. So I really think the amendment is unnecessary, and I hope we suspend the rules and defeat the amendment.

The PRESIDENT: Is it now the pleasure of the Senate that the Senate reconsider its action whereby it adopted Senate Amendment "A"?

It is a vote.

Mr. Speers of Kennebec then moved that Senate Amendment "A" be Indefinitely Postponed, and Mr. Curtis of Penobscot subsequently requested a division.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: It is my understanding that this afternoon before the Committee on State Government there is a resolution being heard to amend the constitution to allow initiative referendums, so perhaps that is the vehicle that should be used, if the Senate and the legislature wants another looksee. If that resolution would pass, then the people would have an opportunity on their own initiative to petition to amend their own constitution. Thank you.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Kennebec, Senator Speers, that Senate Amendment "A" be indefinitely postponed. A division has been requested. Will all those Senators in favor of the indefinite postponement of Senate Amendment "A" please rise in their places until counted. Those opposed will please rise in their places until counted.

A division was had. 26 having voted in the affirmative, and four having voted in the negative, Senate Amendment "A" was Indefinitely Postponed.

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

Sent down for concurrence.

The President laid before the Senate the sixth tabled and Specially Assigned matter:

Bill, "An Act to Authorize the Executive Council to Approve or Disapprove Certain Certain Claims Against the State." (H. P. 366) (L. D. 460)

Tabled — May 2, 1975 by Senator Speers of Kennebec.

Pending — Passage to be Engrossed.

(In the House — Passed to be Engrossed)

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

Senate Amendment "A", Filing No. S-114, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the seventh tabled and Specially Assigned matter:

Bill, "An Act to Permit the Disposal of Moose Killed in Motor Vehicle Accidents." (H. P. 977) (L. D. 1224)

Tabled — May 2, 1975 by Senator Danton of York.

Pending — Passage to be Engrossed. (In the House — Majority Ought Not to Pass Report Read and Accepted.)

(In the Senate — Minority Ought to Pass as amended by Committee Amendment "A" (H-106) Report Read and Accepted in non-concurrence; Committee Amendment "A", Adopted.)

Mr. Pray of penobscot then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-113, was Read.

The PRESIDENT: The Senator has the floor.

Mr. PRAY: Mr. President and Members of the Senate: Just a brief explanation. Last week when this was discussed, the good Senator from Somerset, Senator Cianchette, posed a question to me asking if I would amend it to make the individual that is going to benefit from the accident which he had, if he would be responsible for cleaning up the entire carcass, and that is basically what the amendment does. It puts the responsibility on that individual if he is going to claim the moose.

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.

#### Committee of Conference

On the disagreeing action of the two branches of the Legislature on Bill, An Act Increasing the Number of Associate Justices of the Supreme Judicial Court," (S. P. 147) (L. D. 510) the President appointed the following Conferees on the part of the Senate:

Senators:

COLLINS of Knox  
CLIFFORD of Androscoggin  
MERRILL of Cumberland

#### Papers from the House

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

#### House Papers Education

Bill, "An Act Relating to the Borrowing Capacity of East Range II Community School District." (H. P. 1560) (L. D. 1870)

Comes from the House referred to the Committee on Education and Ordred Printed.

Which was referred to the Committee on Education and Ordered Printed in concurrence.

#### Liquor Control

Bill, "An Act to Authorize the Town of St. George to Hold a Special Town Meeting in May, 1975, to Vote on Certain Local Option

Questions Concerning the Sale of Liquor."  
(H. P. 1564) (L. D. 1872)

Comes from the House referred to the  
Committee on Liquor Control and Ordered  
Printed.

Which was referred to the Committee on  
Liquor Control and Ordered Printed in  
concurrence.

**Local and County Government**

Bill, "An Act to Authorize the  
Commissioners of York County to Make  
Certain Payments from the Contingent  
Account." (H. P. 1561) (L. D. 1871)

Comes from the House referred to the  
Committee on Local and County  
Government and Ordered Printed.

Which was referred to the Committee on  
Local and County Government and  
Ordered Printed in concurrence.

**(Off Record Remarks)**

On motion by Mrs. Cummings of  
Penobscot,

Adjourned until 10 o'clock tomorrow  
morning.