

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh  
Legislature*

OF THE

STATE OF MAINE

**Volume II**

May 21, 1975 to July 2, 1975

**Index**

KENNEBEC JOURNAL  
AUGUSTA, MAINE

**SENATE**

Monday, June 16, 1975

Senate called to order by the President.  
Prayer by The Honorable John B. Roberts of Sanford.

This morning we are going to depart somewhat from the usual procedure. This is not going to be a prayer but it is going to be something that I have wanted to do and something which I think I should have done earlier. I hope you will take it in the vein in which it is given.

In reply to your request to send a check, I wish to inform you that the present condition of my bank account makes it almost impossible. My shattered financial condition is due to federal laws, state laws, city laws, county laws, mothers-in-law, brothers-in-law and outlaws. Through these laws, I am compelled to pay a business tax, amusement tax, a school tax, a gas tax, a sales tax, a liquor tax, a tobacco tax, income tax, poll tax, excise tax, thumb tacks, even my brains are taxed. I am overtaxed, and I am required to get a business license, a car license, a hunting license, a fishing license, a truck license, a marriage license, and a dog license.

My business is so governed that it is not easy for me to find out who owns it. I am inspected, disrespected, rejected, examined, re-examined, informed, misinformed, required, summonsed, commanded, demanded, and compelled until I provide an inexhaustible supply of money for every known need of the human race.

I can tell you honestly that except for the miracle I could not enclose this check. The wolf at my door just had pups and I sold them, and here is the money.

I hope you will bear this in mind throughout the rest of this session and maybe at the special session. Thank you. (Applause)

Reading of the Journal of Friday, June 13, 1975.

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

Bill, "An Act to Increase the Maximum Penalty for Shoplifting and Provide for the Detainment of Persons Suspected of Shoplifting." (S. P. 452) (L. D. 1511)

In the Senate June 12, 1975, the Majority report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (S-292).

Comes from the House, the Minority Ought Not to Pass report Read and Accepted, in non-concurrence.

On motion by Mr. Curtis of Penobscot, tabled until later in today's session, pending Consideration.

**Communications  
STATE OF MAINE**

One Hundred and Seventh Legislature  
Committee on Labor

The Honorable Joseph Sewall  
President of the Senate of Maine  
Senate Chamber  
State House  
Augusta, Maine

Sir:  
The Committee on Labor is pleased to report the completion of that business of the 107th Legislature that was placed before it.

Total number of bills received	83
Total Ought to Pass	8
Total Ought Not to Pass	10
Total Ought to Pass as Amended	21
Total Ought to Pass in New Draft	6

Total Divided 12  
Total Leave to Withdraw 26

Signed: Respectfully,

JOHN B. ROBERTS  
Senate Chairman

Which was Read and Ordered Placed on File.

**STATE OF MAINE**

One Hundred and Seventh Legislature  
Committee on Business Legislation

June 13, 1975

The Honorable Joseph Sewall  
President of the Maine Senate  
107th Legislature  
State House

Augusta, Maine 04330

Dear President Sewall:

The Committee on Business Legislation is pleased to report that it has completed all business placed before it by the 107th Session of the Maine Legislature.

Total Bills Received	145
Unanimous Reports	125
Leave to Withdraw	36
Ought to Pass	33
Ought to Pass as Amended	41
Ought to Pass in New Draft	9
Ought Not to Pass	6
Divided Reports	20
Total Number of Amendments	49
Total Number of New Drafts	15

Respectfully,

Signed: JOHN L. THOMAS JR.  
Senate Chairman

Which was Read and Ordered Placed on File.

**STATE OF MAINE**

Office of the Governor  
Augusta, Maine  
04330

June 13, 1975

To Members of the House of Representatives and Senate of the 107th Maine Legislature

I am today returning to you without my signature and approval L. D. 660, An Act to Create a Construction Loan Program in Which the Maine Housing Authority and Financial Institutions May Participate.

While I am in agreement with the concept of aiding in the construction of housing, I am vetoing this bill because it is my strong feeling that we should make every effort to retain the state's Triple-A (AAA) bond rating before we authorize any further bonded debt or obligation.

I have been advised by Moody's Rating Service and other financial experts that Maine's ability to recapture its former Triple-A (AAA) rating is dependent more on our ability to restrict and more prudently monitor loan authorization than on almost any other single factor. This is attributable in large measure to the poor reputation and experience and adverse publicity Maine has received on its loan authority involvement with Vahlsing and other loan defaults.

Therefore, in view of this, plus the fact that I am also advised this increased loan authority is not really necessary nor even immediately beneficial to the housing industry, and the fact this bill could very easily benefit the banks and savings depositors more than the citizens of Maine as a group, I respectfully request you consider at least postponing the enactment of legislation that increases the loan authority and resulting potential of loss for the people of Maine.

You should also realize that the most recent bond issue will cost the citizens of

Maine an extra million dollars due to the lowering of our bond rating.

Therefore, as governor I ask that you first allow Maine to regain the Triple-A (AAA) bond rating before adding additional unnecessary interest cost to the taxpayers and citizens of this state.

Your upholding of this veto will insure the citizens of Maine that the legislature is also every bit as anxious to restore our Triple-A (AAA) rating.

Very truly yours,

Signed: JAMES B. LONGLEY  
Governor

Which was Read and Ordered Placed on File.

An Act to Create a Construction Loan Program in Which the Maine Housing Authority and Financial Institutions May Participate. (S. P. 192) (L. D. 660)

On motion by Mr. Conley of Cumberland, tabled until later in today's session, pending Reconsideration.

**Committee Reports**

Senate

**Ought to Pass — As Amended**

Mr. Curtis for the Committee on State Government on, Bill, "An Act Revising Lobbyist Disclosure Procedures." (S. P. 150) (L. D. 513)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-312).

Which report was Read.

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

Mr. REEVES: Mr. President, this is a lobbyist disclosure bill, and I would like to mention here that I have been told on good authority that there is a move underway in the corridors of the State House by the highly professional, highly paid lobbyists to kill this bill. If it does not surface in the debate here today, it will happen this week, I am told. I would like to point out that I asked how would this happen, how will it be killed, what parts of the bill are objectionable, and the answer was that the bill will be killed not on its merits but on a nose count, that any lobbyist can count to 17. This seems incredibly cynical to me, Mr. President.

The sponsors of this bill and the members of the State Government Committee have worked long and hard on this bill. It was first introduced six months ago in December 1974, and yet these guys, many of whom will take home 50 to 60 to 75 thousand dollars when we adjourn, say they can kill it in a day, and they say by counting noses. I say phooey to this. So when any of us here feel a hired gun sticking in our ribs in the next day or so, I hope you will be able to turn it down, look at the bill and judge it on its merits. Thank you, Mr. President. I will move that we accept the committee report.

The PRESIDENT: The Senator from Kennebec, Senator Reeves, now moves that the Senate accept the Ought to Pass as Amended Report of the Committee. Is this the pleasure of the Senate?

Thereupon, the Ought to Pass as Amended Report of the Committee was Accepted and the Bill Read Once. Committee Amendment "A" was Read and Adopted and the Bill, as Amended, Tomorrow Assigned for Second Reading.

**Divided Report**

The Majority of the Committee on Election Laws on, Bill, "An Act to Create the Commission on Governmental Ethics

and Election Practices." (S. P. 487) (L. D. 1778)

Reported that the same Ought to Pass in New Draft under Same Title (S. P. 581) (L. D. 1935)

Signed:

Senators:

CORSON of Somerset  
O'LEARY of Oxford

Representatives:

CALL of Lewiston  
BUSTIN of Augusta  
SHUTE of Stockton Springs  
BOUDREAU of Portland  
DURGIN of Kittery  
MACKEL of Wells  
BIRT of East Millinocket  
TALBOT of Portland  
KENNEDY of Gray

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

Signed:

Senator:

BERRY of Cumberland

Which reports were Read.

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

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President, I am not going to oppose the question before this body, but I certainly want to make abundantly clear my opposition to the bill. The bill is a fairly lengthy one and my opposition is quite simple. It is on the second page and it has to do with the construction of the committee.

Historically, I think, and from every workable, practical standpoint, I think the members of the legislature should be judged by their peers, and this bill provides for a committee of seven to be appointed by the President and the Speaker. It is a unique situation when the President and the Speaker appoint people outside the Legislature to anything. This is an aside. But I do very seriously call to your attention a quarrel with the appointment of people outside the Legislature to deal with it. I won't accuse the Ethics Committee of running from their job because I have been on it myself and I have run too. It is a tough job. But I believe that the nuances of the legislative procedure, the familiarity of the members of the commission with the very many intricate and delicate problems that arise, are best handled by members of the Legislature. This is far from the fox guarding the chicken coop. These procedures are wide open and are followed closely by the press and the public.

My experience has been during the existence of the Ethics Committee that it has intelligently and courageously handled the problems. I think above all it has been able to handle the problems the way they should be, and that is without all the fanfare of press seeking individuals, for the welfare of the people of the state by providing proper legislative participation in the various matters and solving them when they are brought into question.

I don't take away from the work of the committee, to which I freely admit I have contributed very little, but in this particular instance my position is well known, and I have historically felt that we in the Legislature have got to grapple with this problem. Now, if this is the nub of the bill, then sobeit. If by making an ethics committee of legislators the balance of the bill is usable and useful, fine, but personally I feel we have right here the same problem that we have had before,

and I know it is a serious problem, it is a philosophical problem, and it is a real problem.

I would hope that somewhere along the line we are going to do something other than have a special commission of seven people who are not members of the Legislature handle the problem of legislative ethics.

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

Mr. MERRILL: Mr. President and Members of the Senate: As the original sponsor of this bill, I want to at least provide a complete explanation of what this bill does do and, maybe more importantly, in light of the remarks of the good Senator from Cumberland, Senator Berry, of what this bill does not do.

Let me say, first of all, this bill deals with three specific areas: the area of legislative ethics, campaign reports, and recount procedures. And let me say at the outset the most sensitive of these areas obviously is legislative ethics. The constitution provides that the final judges of any member of the legislature are the peers of that legislator who sit in the same body as he. This bill does not tamper with that aspect of our constitution, and it should not, for the very reasons that Senator Berry spoke to. This bill provides that the ultimate judge of any legislator will remain his fellow legislators who sit with him in the body.

What this bill does change, however, is what happens before that final judgment. And what the bill provides for is that there will be a commission, one of the jobs of which will be to respond to inquiries about legislative ethics with a recommendation to the appropriate body of the legislature. As it is now, of course, those recommendations are made by leadership here in the legislature, so in a sense now we members of the Senate, if one of these questions arise, are judged not only by our peers in this body at the first instance but by the leaders of our peers in the other body. This bill changes that and would provide that the first inspection of the facts and the first relation of the facts to the law would be done by an independent commission. In regards to legislative ethics, the role of that commission would be finally to make a recommendation to the legislature.

Given the fact that the final determination will remain here or in the other body, depending on where the member sits, why do I think it is important in regards to that aspect of this bill that this bill be introduced? I think it is important because of things that I observed before I came to this legislature in terms of the public confidence in elected officials. I think we can be proud in Maine of having a state that is relatively free from improper influence, and in spite of the fact that this has become a very popular subject of discussion because of events in Washington, I think that anybody who scrutinizes our government closely can be very proud of it in that respect. However, I think we would all be misrepresenting the truth to ourselves, the truth as we certainly know it, if we said that this public confidence is widely held throughout the populace.

Because of that, when a group of legislators sit down to judge other legislators, particularly if the ultimate fact determination leads one to a complete clearing of the charges that are made against the person, the person today, I think, doesn't have the opportunity to be

really cleared because of the suspicion, the suspicion that was alluded to, I think, and spoken against, but nonetheless it is there, by members of the public that you in essence have the fox guarding the chicken coop.

What I really thought was needed in respect to this was a group of people who were respected, who were independent from the process, who could really, most importantly, cut through the accusations and when, as in most cases, the situation demanded that the person be cleared of the charges, that could have respect of the public and take care of it. I think in regards to ethics that it is important that we have a group separate from this body to take the first look at the facts and make that recommendation.

The other area is campaign reports. Essentially the same thing is true here. Now, as you know, we have the Campaign Reports Committee that looks at all the reports that we do and handles charges in regards to those reports. Last summer the Campaign Reports Committee had alleged charges of overspending in the primary that affected several members of this body, myself included, and some of the gubernatorial candidates, some of whom had been members of this body previously.

As that procedure went on and it became obvious that we were dealing with a very complex law, and applying that law to facts, or a law that became complex in the different interpretations that were argued for it, it became obvious to me that no matter what the ultimate determination — and let's just talk specifically in regards to the gubernatorial candidate in my party — no matter what determination the Election Reports Committee made in regards to our election laws as to whether or not they had been violated, it wouldn't be widely believed. The group was dominated obviously by the party that dominated the previous legislature. The gubernatorial candidate was of another party. If they applied the complex law to the facts and said that the person was in fact guilty of violating the law, it would be suspect by everyone who subscribed to the general principles of my party on the basis that it was a partisan judgment. If, on the other hand, the person were cleared, one would again have some question in their mind.

So, again, I thought there was an inherent weakness in the system, not in terms of the ultimate result possibly, but in terms of the credibility with the public that what determination was made in regard to the facts and the law was an accurate representation of the facts.

So essentially what we are creating here is an advisory commission, maybe the most important role of which will be able to, when the facts warrant it, clear a person and do it with more credibility than the present system does, not because the people making the determination are any wiser or any less honest, but because as they are perceived by the public they have less reason to enter a biased decision.

I would like to just share one thing. I went to a conference on legislative ethics early on in this session, and there was a lot of discussion about the problem and what to do about it, and I think the wisest thing that was said by anybody during the session was said by a person who said really we have a major problem in terms of public perception, and if we are wise, we will take very moderate and very measured steps to try to do something about the problem; we will reject taking any extreme steps that tamper with the

fundamental basis of our system; we will reject taking a step, for example, that ultimately takes the decision-making powers about punishing members outside of the body, but we will take moderate steps to restore public confidence and we will make it clear that that is the direction that we are going in, and that we are trying to take very measured steps that strike a balance whereby the public's faith will be restored in government without changing the basic constitutional nature of our government. This bill is an attempt to find that moderate, measured step, and I think it is worthy of passage in this legislature.

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

Mr. KATZ: Mr. President, may I direct through the Chair a question to the Senator from Cumberland, Senator Merrill. On page 2 of the document, subsection 2, qualifications, the second sentence of that section very clearly says, in my way of thinking, that the chairman shall be an attorney. Philosophically, this is unacceptable to me, particularly since later in the document it indicates that the Attorney General shall be available for any assistance required by the commission. I feel that the requirement that the chairman be an attorney is restrictive, and may I ask the reaction of the sponsor to the possibility of deleting that second sentence from the section?

The PRESIDENT: The Senator from Kennebec, Senator Katz, has posed a question through the Chair to the Senator from Cumberland, Senator Merrill, who may answer if he so desires.

The Chair recognizes that Senator.

Mr. MERRILL: Mr. President, I would have no objection to an amendment which removes that sentence from the bill. Let me make it clear that it wasn't the intent that this necessarily would require somebody who was an attorney. It was understood that these terms may also apply to somebody who does a lot of representation in labor disputes and has a background, just to pick an example, of where somebody might have this sort of a background other than from experience in court. But no, that is not an important aspect of the bill, I don't think, in the sense that I would object to its being removed.

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

Mr. CLIFFORD: Mr. President, this is a rather lengthy bill, and I would just like to ask a couple of questions of the sponsor. The intent is to get a commission made up of members outside the legislature. I guess I don't have a quarrel with that. I wonder if there is any change in the substantive law in two areas, and that is of the reporting of the sources of income, which was passed at the last session of the legislature and which the members of this legislature complied with; two, the definition of conflicts of interest which exists under current law, and which appears from a quick reading not to have been changed, or at least not substantially changed. And then the only other point which I would ask about is that in reading the bill, and perhaps this is premature, but on the campaign spending, as I read it, the Senate and the House restrictions are the same, and I think that at least after the single member districts go through, it would seem to me that there would be a reason to change that. But I guess I would ask those three questions, especially the first two, which I think are the more important ones.

The PRESIDENT: The Chair recognizes

the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: It was the intent that this bill make absolutely no change in the fundamental law with respect to ethics or with respect to campaign reporting. I drafted this bill myself, and I haven't had a chance to give the same close scrutiny to the redraft, but that is the intent. And I say with as much assuredness as I can that this makes no change at all. I also say that having read the conflict law for the first time when I started drafting this law, I became rather startled by how poorly drafted it seems to be. But it makes no change in the campaign reporting fundamental law or in conflict of interest.

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

Mr. BERRY: Mr. President, I have been using the subsequent period since the last time I talked to read further into the bill, and I see some interesting, what I would say, changes here. As I read the definition of "close economic association", I question whether any member of this body could have voted on the bank bill, for instance.

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

Mr. MERRILL: Mr. President, the good Senator from Cumberland has found that language that troubles me, but that is the language in the present law. And when I spoke and presented this bill to the Election Laws Committee, I spoke of my concern with the vagueness in our law and suggested that they may find some other vehicle to make changes in that complex law. But this bill merely restates the present law, and it is as troubling to me as it is to the Senator from Cumberland.

The PRESIDENT: Is the Senate ready for the question? The pending question is the acceptance of the Majority Ought to Pass in New Draft Report of the Committee? Is this the pleasure of the Senate?

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

#### Second Readers

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

#### House

Bill, "An Act to Provide Maine No-fault Motor Vehicle Insurance Reform." (H. P. 1698) (L. D. 1932)

Which was Read a Second Time.

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

#### House — As Amended

Bill, "An Act Amending Laws Relating to Juvenile and Correctional Institutions and Judicial Dispositions." (H. P. 518) (L. D. 647)

Bill, "An Act Relating to Commercial Fishing and the Increase of Certain License Fees Issued by the Department of Marine Resources." (H. P. 1118) (L. D. 1415)

Bill, "An Act to Establish the Uniform Crime Victims Reparations Act." (H. P. 1401) (L. D. 1787)

Bill, "An Act to Provide for the Maintenance of Neglected Dams and Existing Water Levels in Lakes Impounded by Dams." (H. P. 1459) (L. D. 1797)

(On motion by Mr. Speers of Kennebec, tabled until later in today's session, pending Passage to be Engrossed.)

Bill, "An Act to Provide Minimum Standards for the Protection of the Rights of Residents of Public Institutions." (H. P. 1219) (L. D. 1807)

Bill, "An Act to Revise an Act Relating to Property Taxation which was Enacted by the 106th Legislature." (H. P. 1684) (L. D. 1917)

(On motion by Mr. McNally of Hancock, tabled until later in today's session, pending Passage to be Engrossed.)

Bill, "An Act to Create a Commission to Revise the Statutes Relating to Juveniles, Including the Statutes Relating to the Juvenile Court." (H. P. 1271) (L. D. 1752)

Which were Read a Second Time and, except for the tabled matters, Passed to be Engrossed, as Amended, in concurrence.

Bill, "An Act to Provide Alternatives to the Compulsory Attendance Law." (H. P. 858) (L. D. 1079)

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

Sent down for concurrence.

#### Orders of the Day

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

Bill, "An Act Relating to Termination of Utility Service." (H. P. 1361) (L. D. 1663)

Tabled — June 13, 1975 by Senator Speers of Kennebec.

Pending — Passage to be Engrossed.

(In the House — Passed to be Engrossed as Amended by Committee Amendment "A" (H-650).)

(In the Senate — Committee Amendment "A" and Senate Amendment "A" (S-286) Adopted.)

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

Mr. CLIFFORD: Mr. President, the sponsors of the bill and the utility which opposed it have come to an agreement on an amendment which has been prepared and which is being reproduced, and I think that the matter has been resolved. So if someone would table it until later in today's session, I think the amendment would be ready.

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

Thereupon, on motion by Mr. Katz of Kennebec, tabled until later in today's session, pending Passage to be Engrossed.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following unassigned matter:

Bill, "An Act to Simplify the Computation of Tree Growth Reimbursement." (H. P. 244) (L. D. 298)

Tabled — April 24, 1975 by Senator Speers of Kennebec.

Pending — Enactment.

(In the House — Passed to be Enacted.)

On further motion by the same Senator, 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.

On motion by Mr. Conley of Cumberland, the Senate voted to take from the table the following unassigned matter:

House Reports — from the Committee on Taxation — Bill, "An Act to Remove the Town of Medway from the Maine Forestry District." (H. P. 228) (L. D. 284) Majority

Report Ought to Pass; Minority Report Ought Not to Pass.

Tabled March 14, 1975 by Senator Conley of Cumberland.

Pending—Acceptance of Either Report. (In the House—Passed to be Engrossed as Amended by House Amendment "A" (H-66).)

On further motion by the same Senator, the Majority Ought to Pass Report of the Committee was Accepted in concurrence and the Bill Read Once. House Amendment "A" was Read and Adopted in concurrence.

The same Senator then moved that the rules be suspended and the Bill be given its Second Reading at this time.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President and Members of the Senate: I don't propose to make any hard push on this bill, but I think the bill should be indefinitely postponed. My reason is that we are gradually eroding the forestry district. We take out one town this year and one town next year, and so on, and I think that the proper way to handle this is to have the forestry district financed by the state, and not take one town after another out and gradually erode the district. I would move indefinite postponement of this bill and all accompanying papers.

The PRESIDENT: The Senator from Washington, Senator Wyman, now moves that this bill and all its accompanying papers be indefinitely postponed.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President, I would request a division on the motion and I would like to speak to my request for a moment.

The PRESIDENT: The Senator has the floor.

Mr. PRAY: Mr. President and Members of the Senate: When this item was laid on the table unassigned, I talked to the Chairman of the Taxation Committee, and it was my understanding that the reason it was tabled unassigned was so they could use it as a vehicle to remove their eroding system of the forestry tax district.

Now, the Town of Medway is a town that receives no benefits at all from this tax. They have their own fire protection and they continuously year after year pay into this. I think if we are going to be responsible in our tax system that these towns which are receiving no benefits from this, these towns that finance their own fire protection, should not be called upon to pay another tax to protect something that they are already paying a tax through their own town with their property tax to protect.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President and Members of the Senate: I am in entire agreement with what the good Senator from Penobscot, Senator Pray, says. We having this problem constantly recurring, and I think this whole forestry district tax should be abolished and placed on the state, because the same problems occur which he mentions, some towns don't get any benefit from it and others do. My only problem is that I think we should use this as a vehicle and get rid of this forestry district tax, or else we should let it go.

Now, if the Appropriations Committee can come up with the necessary money to abolish this forestry district tax, then I am in entire agreement, I think that is what

should happen, because I think it is a very unfair and uneven tax.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from Washington, Senator Wyman, that L. D. 284 and all accompanying papers be indefinitely postponed.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I would just like to make it clear to the Senate that I certainly was not trying to pull anything underhanded by moving to give this bill its second reading at this time. My main purpose was to move the bill along.

I would hope that the Senate would vote against the motion to indefinitely postpone. I think the good Senator from Washington County, Senator Wyman, has really given us some excellent reasons to vote for the bill, and I hope the Senate would vote against the pending motion.

The PRESIDENT: The pending question is the motion by the Senator from Washington, Senator Wyman, that this bill, L. D. 284, and all its accompanying papers be indefinitely postponed.

A division has been requested. Will all those Senators in favor of indefinite postponement please rise in their places until counted.

A division was had. Four having voted in the affirmative, and 24 having voted in the negative, the motion did not prevail.

Thereupon, on motion by Mr. Conley of Cumberland, and under suspension of the rules, the Bill was given its Second Reading and Passed to be Engrossed, as Amended, in concurrence.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following unassigned matter:

House Report—from the Committee on Performance Audit—Bill, "An Act Relating to Personnel Classification and Functions of the Review and Evaluation and Fraud Investigation Division of the Department of Audit." (H. P. 1122) (L. D. 1409)—Ought to Pass as Amended by Committee Amendment "A" (H-235).

Tabled—May 6, 1975 by Senator Speers of Kennebec.

Pending—Acceptance of Report. (In the House—Passed to be Engrossed as Amended by Committee Amendment "A".)

Thereupon, the Ought to Pass as Amended Report of the Committee was Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted in concurrence.

On motion by Mr. Speers and under suspension of the rules, the Bill, as Amended, was given its Second Reading and Passed to be Engrossed in concurrence.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following unassigned matter:

Senate Report—from the Committee on Legal Affairs—Bill, "An Act Relating to Termination of Tenancy in Mobile Homes." (S. P. 375) (L. D. 1202) Leave to Withdraw.

Tabled—May 9, 1975 by Senator Speers of Kennebec.

Pending—Acceptance of Report. Thereupon, the Leave to Withdraw Report of the Committee was Accepted.

Sent down for concurrence.

On motion by Mr. Speers of Kennebec,

the Senate voted to take from the table the following unassigned matter:

Bill, "An Act Relating to Ballots Containing Improper Write-in Votes." (S. P. 84) (L. D. 255)

Tabled—May 15, 1975 by Senator Speers of Kennebec.

Pending—Consideration. (In the House—Passed to be Enacted.)

(In the Senate—Passed to be Engrossed as Amended by Senate Amendment "A" (S-146) in non-concurrence.)

(Comes from the House, that Body having Adhered.)

On motion by Mr. Corson of Somerset, the Senate voted to Recede and Concur.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following unassigned matter:

House Reports—from the Committee on Taxation—Bill, "An Act Relating to the Income Limitation of the Elderly Homeholders Tax and Rent Refund Act." (H. P. 418) (L. D. 504) Majority Report—Ought Not to Pass; Minority Report—Ought to Pass.

Tabled—May 21, 1975 by Senator Speers of Kennebec.

Pending—Motion of Senator Wyman of Washington to Accept the Minority Ought to Pass Report.

(In the House—Passed to be Engrossed.)

On motion by Mr. Conley of Cumberland, retabled until later in today's session, pending the motion by Mr. Wyman of Washington to Accept the Minority Ought to Pass Report of the Committee.

(Off Record Remarks)

There being no objection, all matters previously acted upon in today's session requiring concurrence were sent down forthwith for concurrence.

On motion by Mrs. Cummings of Penobscot,

Recessed until 4:30 o'clock this afternoon.

#### After Recess

Called to order by the President.

#### Committees of Conference

On the disagreeing action of the two branches of the Legislature on Bill, "An Act to Abolish the Defense of Sovereign Immunity in Certain Situations" (H. P. 1297) (L. D. 1568), the President appointed the following Conferees on the part of the Senate:

Senators:  
BERRY of Cumberland  
PRAY of Penobscot  
MERRILL of Cumberland

On the disagreeing action of the two branches of the Legislature on Bill, "An Act Amending Laws Relating to Hospitalization of the Mentally Ill" (S. P. 368) (L. D. 1204), the President appointed the following Conferees on the part of the Senate:

Senators:  
COLLINS of Knox  
HICHENS of York  
BERRY of Androscoggin

On the disagreeing action of the two branches of the Legislature on Bill, "An Act to Establish Job Development, Placement and Follow-up Services in Secondary Schools" (S. P. 476) (L. D. 1609), the President appointed the following Conferees on the part of the Senate:

Senators:

THOMAS of Kennebec  
WYMAN of Washington  
REEVES of Kennebec.

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

Bill, "An Act to Increase the Maximum Penalty for Shoplifting and Provide for the Detainment of Persons Suspected of Shoplifting." (S. P. 452) (L. D. 1511)

Tabled — earlier in the day by Senator Curtis of Penobscot.

Pending — Consideration.

(In the Senate — Passed to be Engrossed as Amended by Committee Amendment "A" (S-292).)

(In the House — Bill and Accompanying Papers Indefinitely Postponed, in non-concurrence.)

On motion by Mr. Curtis of Penobscot, and under suspension of the rules, the Senate voted to Recede from its former action whereby the Bill was Passed to be Engrossed.

The same Senator then moved that the Senate Reconsider its former action whereby Committee Amendment "A" was Adopted.

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

Mr. MERRILL: Mr. President, I would inquire through the Chair as to what purpose the Senator makes the motion?

The PRESIDENT: The Senator from Cumberland, Senator Merrill, has posed a question through the Chair which the Senator from Penobscot, Senator Curtis, may answer if he so desires.

The Chair recognizes that Senator.

Mr. CURTIS: Mr. President, the motion is made so that it will be possible to consider Senate Amendment "A" to Committee Amendment "A", under Filing No. S-320, which has been distributed.

The PRESIDENT: The Senator from Penobscot, Senator Curtis, now moves that the Senate reconsider its action whereby it adopted Committee Amendment "A". Is this the pleasure of the Senate?

The motion prevailed.

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

Senate Amendment "A", Filing No. S-320, to Committee Amendment "A" was Read and Adopted and Committee Amendment "A", as Amended by Senate Amendment "A" Thereto, was Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

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

Bill, "An Act to Create a Construction Loan Program in which the Maine Housing Authority and Financial Institutions May Participate." (S. P. 192) (L. D. 660)

Tabled — earlier in the day by Senator Conley of Cumberland.

Pending — Reconsideration.

On motion by Mr. Conley of Cumberland, retabled and Tomorrow Assigned, pending Reconsideration.

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

Bill, "An Act to Provide Maine No-fault Motor Vehicle Insurance Reform." (H. P. 1698) (L. D. 1932)

Tabled — earlier in the day by Senator Jackson of Cumberland.

Pending — Passage to be Engrossed.

(In the House — Passed to be Engrossed.)

Mrs. Cummings of Penobscot presented Senate Amendment "A" and moved its Adoption.

Senate Amendemnt "A", Filing No. S-317, was Read.

The PRESIDENT: The Senator has the floor.

Mrs. CUMMINGS: Mr. President, "The purpose of this amendment is to require the elimination of duplicate health care coverage under no-fault auto coverage." I am just reading the statement of fact: "This amendment would include benefits received from health insurance and Blue Cross with other 3rd party payment systems already covered in the bill as subtractable benefits. Under this amendemnt, the auto insurer would not pay medical costs which had already been paid by health insurers or Blue Cross. If the auto insurer does not have to pay out benefits for services already paid for, the cost of the insurance should be reduced. Secondly, this amendment eliminates the provision relating to 'coordination of benefits' because the provision is illusory in effectiveness since the insurer can circumvent this provision by submitting a plan which is unapprovable by the Superintendent of Insurance."

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

Mr. JACKSON: Mr. President and Members of the Senate: I rise in opposition to this amendment because basically the statement of fact, as the good Senator from Penobscot stated, says the purpose of this amendment is to require the elimination of duplicate health care coverage under no-fault auto coverage. In reading L. D. 1932, I didn't come across any provision in there which made it mandatory that the insured persons or insured parties would be required to carry duplicate health care coverage.

Basically, L. D. 1932 provides the consumer three options: One, the auto carrier can pay the benefits in full. Two, the health carrier, such as the little group that I saw that has been added to the amendment in section 2959, which would be non-profit hospital and medical service organizations, could pay this. Third, the consumer could collect from both health and auto carriers.

Under this provision, I believe that with the Maine Blue Cross and Blue Shield — and primarily I think this is probably where the amendemnt originated from — most people who carry Blue Cross and Blue Shield have group insurance: they are insured through a company, their employers, and the way I feel about it is that it is a function of employment. So what happens if a fellow's employment is terminated and this gentleman doesn't realize, he hasn't received notice, that his primary health insurance or automobile insurance under the no-fault plan, if this amendment was to be considered, what would happen to him if he failed to renew his insurance with some other company?

Another thing I have a question here with is that under Blue Cross-Blue Shield, it insures you and your family, but what about any occupants in the car which are not your family? It seems to me that you would have to acquire insurance somewhere else, maybe from the private sector of the insurance industry. In Maryland, just stating some facts, the Blue Cross-Blue Shield rates were actually no smaller than the independent insurance

brokers. In fact, in Maryland, Blue Cross was fired from its contract for inefficient service. Now, under this, I understand, in eighteen days it has to be paid, and I wonder how Blue Cross-Blue Shield could operate if they are in this amendment as such. I just can't comprehend the situation.

It has also been brought to my attention that maybe the "Blues" return a greater amount of dollars to the consumer. I think this might be what you would consider apples and oranges; sure, the "Blues" may return more money to the consumer through basically the hospital medical costs; but also the insurance companies have got the claims; they have got the expense of refixing the automobile that was damaged, or whatever the case may be, the investigation, loss of time from employment, things of this nature, so I think it is probably sort of an equidistant factor.

I think that basically the bill in its original form, without the amendment, provides insurance to the consumer that he has the freedom of choice. And I think this with the amendment, it includes the non-profit, and I assume that would delete the freedom of choice. Therefore, I move the indefinite postponement of this amendment, and I would urge the members of the Senate to vote with me.

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

Mr. MERRILL: Mr. President and Members of the Senate: I don't rise really so much to support or oppose this motion but basically to, hopefully, clear up a little bit what the amendment would do.

Presently, under Maine law, there are no provisions that necessarily remove the possibility of when a person gets in an accident and has \$3,000 damages in medicals, if he is insured both by a group plan, let's say, through Blue Cross and through the medical insurance part of his automobile policy, there is nothing to assure that the person won't collect \$6,000, \$3,000 from each. What this amendment would do is that it would say that the group carrier is primary coverage, that the health insurance is primary, and that he wouldn't receive the second \$3,000.

Now, I suppose on first blush this might seem like it is an attempt to take something away from the consumer, that is, the person who is injured by the ability to collect twice. The obvious answer to that is that if these duplicate payments are made, it has to be reflected in the cost of premiums. And when this matter was studied in regards to no-fault bills in the last session by an independent actuarial study commission by this legislature, they found that elimination of duplicate benefits could result in as much as a 15 percent reduction in the cost for these personal injury premiums. I think 15 percent is a considerable savings that could be brought about by this, and I think it also would bring about a situation which is really more just, which is to merely compensate the person for his losses and not have him, in essence, reap a windfall from his injuries and collect twice.

So what this bill merely does is that it does change what the present law is, and it would change it if we enacted this no-fault plan, but I think that the savings that would be brought about by this change might help offset the increases in benefits that I think will come about otherwise from the acceptance of a no-fault plan.

The PRESIDENT: Is the Senate ready for the question? The pending question

before the Senate is the motion by the Senator from Cumberland, Senator Jackson, that Senate Amendment "A" be indefinitely postponed.

The Chair will order a division. Will all those Senators in favor of indefinite postponement of this amendment please rise in their places until counted.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President, I request a roll call.

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

Obviously less than one-fifth having arisen, a roll call is not ordered. The Chair will order a division. Will all those Senators in favor of the pending motion, which is the indefinite postponement of Senator Amendment "A", please rise in their places until counted.

A division was had, 17 having voted in the affirmative, and 14 having voted in the negative, the motion prevailed.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I think that the action of the Senate on Senate Amendment "A" said was that a person unamended, still has the basic problems of which we spoke recently, and that is that it is a bill that is discriminatory because the threshold remains: a person in a rural area is not going to be able to sue as soon as the person in the urban area. Secondly, there is going to be duplicate coverage under this bill, a person is going to be paying twice, because what Senate Amendment "A" said was that a person had the choice to be covered by his Blue Cross-Blue Shield, and the reason that the insurance lobby opposed it so vigorously was because they want the whole ballgame themselves.

Remember now, under no-fault, the insurance is going to be mandatory. You are going to have to buy your health insurance through the insurance agents, even though you are covered under some other plan, and that is exactly why they opposed Senate Amendment "A" so strenuously.

This bill in its unamended version is a bad bargain. We are telling people that they are giving up their right to sue when in fact Maine doesn't have a problem of clogged courts caused by automobile tort cases. Maine doesn't have a great deal of fraud involved in automobile tort cases as other states have, and Maine has low insurance rates. Now, these were all reasons why other states, a few other states, passed no-fault where it has passed, and none of those reasons exist in Maine. And the results of the no-fault where it has passed has meant three things: it has meant substantial increases in insurance rates, it has meant reduction in the amount of money paid out to the citizens of those states, and it has meant a very substantial increase in insurance company profits. Now, if that is what we want to do, then you ought to vote for the bill which is unamended.

But the kind of no-fault that a state like Maine should have is the no-fault that doesn't discriminate, that doesn't have the threshold, so that the first party benefits are paid. And in those cases, if that kind of no-fault were available in Maine, you would see in fact a substantial reduction in the amount of nuisance value suits.

So this is a bad bargain. You are voting to have the citizens of Maine give up a very important right which they have, and which in fact is not being abused in this state, although it may have been abused in some of the urban states. And in exchange for that, in exchange for giving up that right, you are voting for mandatory coverage, you are voting for increased insurance rates, decreased payments out to Maine citizens, and increased profits to the insurance companies.

Mr. President and Members of the Senate: I move that this bill and all its accompanying papers be indefinitely postponed.

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

Mr. THOMAS: Mr. President and Members of the Senate: As Chairman of the Business Legislation Committee which heard L. D. 1932, which at one time had a different number, under this no-fault we had three no-fault bills, by the way, and this is the one that was discussed primarily — but let's remember a few things. Everyone will be required to have liability insurance, which will protect the citizens from the uninsured driver. No-fault insurance will be for injuries only, and not property damage. You will collect from your own insurance company: No. 1, your medical expenses; No. 2, your wage losses; No. 3, survivors benefits, and you will receive these benefits faster and easier. And if the company doesn't give you good service, they are required, on page 9 of the bill, if you look, to pay you 18 percent interest annually.

Now, there is a threshold, as Senator Clifford from Androscoggin mentioned, that in order to offset the ever-increasing liability insurance there is a mild threshold. For injuries, suit is not permitted unless the reasonable value of medical bills is \$500 or the injured party is disabled or disfigured. There was quite a debate in committee on threshold. The original bill read \$1,000, and one person who signed the minority report wanted the threshold at \$2,000. We lowered it to \$500 as a compromise between the second floor and the third floor.

We all know that the tort system is abused on small injury cases. Trial lawyers obviously are opposing this bill. This bill provides first party benefits so that suit is unnecessary. Also it cuts down abuse of the tort system and will return a greater portion of the liability insurance premium to the injured people who really need the benefit. This bill will provide faster benefit delivery, broader benefits, with cost controls built in. It came out at the hearings that we wouldn't save any money nor should it cost any money, that the cost should be about the same as it is today.

We must remember that the federal government right now is undertaking a study and possible passage of a federal no-fault law. They may provide a law which we will feel is unsatisfactory to the citizens of Maine, so let's pass our own.

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

Mr. KATZ: Mr. President and Members of the Senate: The Senator from Androscoggin, Senator Clifford, makes some personal conclusions that are based upon a judgment of what may happen, but I think the Senate is in possession of some facts as to what actually has happened in the past.

I sat on Business Legislation last time when we had four no-fault bills. As a

concoction, the sponsor of the compromise legislation this time was vigorously in support of Senate Amendment "A" last time, but now he has adopted a more moderate position.

Well, what happens in the State of Maine today when there is a difference of opinion? Only a small number of auto accident cases ever go to trial, but a larger number enter the stage where a suit is brought or a suit is threatened, and here is where some dollars get siphoned off out of the pockets of the insured into the necessity for legal representation. And legal representation in automobile personal injury suits is very, very substantial. This is a cost of doing business, and one of the things that no-fault insurance does is to address itself to this particular cost of doing business, and there is a specific and demonstrable saving in this area. Now, whether it ultimately is shared by increased profits for the insurance company or increased benefits and prompt service for the insured is conjecture, but I think prudence would indicate that the insured is going to benefit from this savings.

When it is finally determined in cases where suit is threatened, it may take years from the time of the accident to the settlement, and during this time the insured person has no certain knowledge of how much he will be paid or whether he will be paid at all. The problem with most accidents is they are not quite sure whose fault it is, and the question of whose fault it is has to be carefully investigated. And where the blame is not easily assignable, this is where you get these enormous delays.

Well, we spent hundreds and hundreds of hours last session looking into no-fault, and I suspect that the Business Legislation Committee probably exceeded that this year. The fact is that you will never get a no-fault insurance program that will suit everybody in the Maine Senate or the Maine House, or indeed in any legislative body.

Not having served on the committee this year, I have been particularly sensitive to what people outside have been saying, and everything I hear indicates that this is the best compromise piece of legislation that could possibly have been before us, and I say we will never be pleased. I think Maine people want consumer oriented no-fault insurance, and I think this is a meaningful compromise.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: The good Senator from Kennebec, Senator Thomas, mentioned that people are often unprotected from the uninsured motorist. We have last week enacted a bill, signed by the Governor, which takes care of a good deal of that problem and increases the uninsured motorists coverage that our citizens will now have, making that coverage equal to their own liability coverage unless they specifically reject that amount of uninsured motorist's coverage. Uninsured motorist coverage is now mandatory if one has liability coverage. So that is a problem that I think Maine has dealt with in an intelligent fashion.

Secondly, it is a fact that in Massachusetts and in New York, insurance rates have substantially increased since the no-fault insurance law has been passed. It is a fact that the amount of benefits paid has decreased. And it is a



fact that the insurance company profits have increased. These are all facts in states which have passed no-fault laws. And at least in those states they had some justification in the area of the clogged courts and in the area of the fraud which was involved. Maine does not have that problem. Yet, even though we do not have that problem, we are ready to take away from the Maine citizens the right to sue, with no reduction in the insurance cost. No one is saying it is going to reduce the cost of insurance. As a matter of fact, Senate Amendment "A" would have done something about reducing the costs. And we are ready to make that bargain because no-fault insurance happens to have a sexy title.

I am for no-fault insurance. I voted for no-fault insurance in the last legislative session, and I would vote for no-fault insurance that makes sense for Maine. But this no-fault insurance does not make sense for Maine; it makes sense for the insurance companies, and I hope you would vote for indefinite postponement. Thank you, Mr. President.

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

Mr. MERRILL: Mr. President and Members of the Senate: I would like to put a question through the Chair, and maybe the Senator from Kennebec, Senator Katz, or some other knowledgeable party could answer the question, if they would. This has been referred to as a compromise between what was referred to as the Trask Bill and what was referred to as the Tierney Bill that came before the 106th. I would like to know in what major ways the bill before us now differs from the Trask Bill.

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

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I am trusting my memory, but I think the major difference is in the question of the threshold. There were many of us last time who supported a very, very significantly large threshold. I think most people would say that \$500 is a very, very modest threshold.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from Androscooggin, Senator Clifford, that L. D. 1932 and all its accompanying papers be indefinitely postponed.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I would request a roll call.

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 one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call rise in their places until counted.

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

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: I have been reluctant to engage actively in this debate for one reason, and one reason alone, and that is because recently I have become a member of the legal fraternity here in Maine and, as the Senator from Kennebec, Senator Katz, inferred, all of us in the legal community who speak on this bill, I

suppose, are immediately suspect. And I suppose, having recently become a member of that community, in spite of the fact that I have yet to reap any profits from the ability to sue, I join that suspect class. However, I can say wholeheartedly that if I were not a member of the legal profession I would have been leading the fight against this bill from the beginning, and I intend to vote against this bill in its present form now.

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

Mr. KATZ: Mr. President and Members of the Senate: I think it is not only the right of attorneys in this body to speak on this subject and to give us the benefit of their thinking, I think it is their duty to, and I see absolutely no conflict in this at all.

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

Mr. JOHNSTON: Mr. President and Members of the Senate: Having been a member of the Business Legislation Committee that heard this bill, I would like to just respond to a few of the remarks from the good Senator from Kennebec, Senator Thomas, who is Chairman of our Committee.

With respect in particular to the \$500 threshold that appears in this bill as it is written, and the Senator's referral to that \$500 threshold as a compromise, it is not my opinion that the \$500 is any sort of a compromise. It is my opinion that that \$500 threshold was preordained from the day the drafter of the bill and the insurance companies with whom he compromised got together somewhere in the past and came up with this present no-fault bill, which I think in itself is a compromise perhaps between a bill in another session.

It was my intention as a member of the committee to work with the committee and with the drafter of the bill to come up with the best possible no-fault bill for Maine that we could bring out of that committee in case it passed, and then I signed that it ought not to pass. I believe that it ought not to pass because I don't believe Maine needs no-fault at this time. If you were to look at the insurance rates in the country and take the most expensive state and classify that No. 1, Maine is No. 38.

I am not an attorney and I don't feel badly about speaking against this bill. I do have a lot of friends in the insurance companies and I do have a lot of friends in the legal fraternity in my constituency, but I number the people of Maine as more important than either of those factions, and I just don't think those people need no-fault at this time.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from Androscooggin, Senator Clifford, that L. D. 1932 and all its accompanying papers be indefinitely postponed. A "Yes" vote will be in favor of indefinite postponement; a "No" vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Berry, E.; Clifford, Conley, Corson, Curtis, Cyr, Johnston, McNally, Merrill, O'Leary, Pray, Speers, Trotzky, Wyman.

NAYS: Senators Berry, R.; Carbonneau, Cianchette, Collins, Cummings, Danton, Gahagan, Graffam, Graham, Greeley, Hichens, Jackson, Katz, Marcotte, Reeves, Roberts, Thomas.

A roll call was had. 14 Senators having voted in the affirmative, and 18 Senators

having voted in the negative, the motion did not prevail.

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

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

Mr. JACKSON: Mr. President, in reference to L. D. 1932, having voted on the prevailing side, I would like to move for reconsideration and urge the members of this body to vote against me.

The PRESIDENT: The Senator from Cumberland, Senator Jackson, now moves that the Senate reconsider its action whereby L. D. 1932 was passed to be engrossed.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: I really have refrained from speaking on this matter, but listening to the good Senator from Kennebec, Senator Katz, mention that he does feel it the duty of every attorney to speak in this body regarding this matter, I do want to make one comment, and it is a comment that I hope the members of this body will listen to and keep very much in mind when this matter comes up for final enactment. That is regarding a threshold compromise, so-called compromise, as to when an individual may or may not sue. I would like to point out in reference to that that there is no mandate that anyone sue another individual, or no mandate that if one wants to collect from another insurance company that he has to hire an attorney. If he wishes to take his chances and collect from another insurance company on his own, then he certainly has that right to do so.

Now, if this did have a very high threshold, let us say \$25,000, that no one would be allowed to sue for any damages under \$25,000, I think this body would rise up in utter astonishment and laughter and turn its back on such a bill completely, irrevocably, without giving it very much thought, because that individual is being denied his right to sue, which is a very basic concept under our constitution. Well, it is not \$25,000. It has been amended, it has been compromised, it is down to \$500, and somehow that seems a little bit more acceptable and all right. But my objection to this bill is simply that the individual is still being denied a very basic right, and all we have been talking about here in this chamber is the amount of the cost and how much that individual is going to pay or be charged for giving up a very basic right that he has. So if this body wishes to compromise on something as basic as that, then it can continue in its position when this bill comes back for enactment. But I do hope and very seriously urge this Senate to give very careful consideration to a very basic right that it is denying and taking away from every citizen of this state.

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

Mr. CLIFFORD: Mr. President, I move this item be tabled one legislative day, pending the motion of the good Senator from Cumberland, Senator Jackson.

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

On motion by Mr. Katz of Kennebec, a division was had. 20 having voted in the affirmative, and 12 having voted in the negative, the tabling motion prevailed.

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

Bill, "An Act to Provide for the Maintenance of Neglected Dams and Existing Water Levels in Lakes Impounded by Dams." (H. P. 1459) (L. D. 1797)

Tabled earlier in the day by Senator Speers of Kennebec.

Pending — Passage to be Engrossed.

(In the House — Passed to be Engrossed as Amended by Committee Amendment "A" (H-699).)

(In the Senate — Committee Amendment "A" Adopted in concurrence.)

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, an amendment has been prepared and should be delivered to our desks in a very few minutes, and I hope the matter might be tabled and brought up a little later this afternoon.

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

Thereupon, on motion by Mr. Speers of Kennebec, tabled until later in today's session, pending Passage to be Engrossed.

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

Bill, "An Act to Revise An Act Relating to Property Taxation which was Enacted by the 106th Legislature." (H. P. 1664) (L. D. 1917)

Tabled — earlier in the day by Senator McNally of Hancock.

Pending — Passage to be Engrossed.

(In the House — Passed to be Engrossed as Amended by House Amendment "G" (H-745).)

(In the Senate — House Amendment "G" Adopted in concurrence.)

The PRESIDENT: The Chair recognizes the Senator from Hancock, Senator McNally.

Mr. McNALLY: Mr. President, I am very sorry to find that there is a sentence omitted from this amendment which I have. If somebody would table this until tomorrow, it would be very fine for me.

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

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

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

Bill, "An Act Relating to Termination of Utility Service." (H. P. 1361) (L. D. 1663)

Tabled — earlier in the day by Senator Katz of Kennebec.

Pending — Passage to be Engrossed.

(In the House — Passed to be Engrossed as Amended by Committee Amendment "A" (H-650).)

(In the Senate — Committee Amendment "A" and Senate Amendment "A" (S-286) Adopted.)

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

Mr. CLIFFORD: Mr. President, for the purposes of offering an amendment, Senate Amendment "C", which would be under Filing No. S-316, which amendment has been agreed upon by both the purposes of offering an amendment, Senate Amendment "C" 7, which would be under Filing No. S-316, which amendment reconsider its action whereby it adopted Senate Amendment "A".

The PRESIDENT: The Senator from

Androscoggin, Senator Clifford, now moves that the Senate reconsider its action whereby Senate Amendment "A" was adopted. Is this the pleasure of the Senate?

The motion prevailed.

On further motion by the same Senator, Senator Amendment "A" was Indefinitely Postponed.

On further motion by the same Senator, and under suspension of the rules, the Senate voted to reconsider its former action whereby Committee Amendment "A" was Adopted and, on further motion by the same Senator, Committee Amendment "A" was Indefinitely Postponed.

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

Senate Amendment "C", Filing No. S-316, 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 following tabled and Specially Assigned matter:

House Reports — from the Committee on Taxation — Bill, "An Act Relating to the Income Limitation of the Elderly Householders Tax and Rent Refund Act." (H. P. 418) (L. D. 504)

Majority Report — Ought Not to Pass; Minority Report — Ought to Pass.

Tabled — earlier in the day by Senator Conley of Cumberland.

Pending — Motion of Senator Wyman of Washington to Accept the Minority Ought to Pass Report.

(In the House — Passed to be Engrossed.)

The PRESIDENT: The Chair recognizes that Senator.

Mr. WYMAN: Mr. President and Members of the Senate: This is just another problem where inflation has caught up with these older people, and I think the statement of fact on the bill expresses it pretty well. It says, "Some elderly citizens who in 1973 received refunds did not qualify in 1974 due to increased income, which did not represent an increase in actual purchasing power. At the same time, many towns found it necessary to increase 1974 property taxes. This one-two punch hurt many older people. Not only did they face higher 1974 property taxes, but had lower or no refunds to help meet the higher assessment."

For that reason, I would hope we would adopt the Minority Report and at least let this go along to the Appropriations Table.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Washington, Senator Wyman, that the Senate accept the Ought to Pass Report of the Committee. Is this the pleasure of the Senate?

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

#### Papers from the House

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

#### Non-concurrent Matter

Bill, "An Act Relating to the Dredging, Filling or otherwise Altering Coastal Wetlands." (H. P. 590) (L. D. 730)

In the House May 29, 1975, Passed to be Engrossed as Amended by Committee Amendment "A" (H-354) as Amended by House Amendment "B" (H-554).

In the Senate June 13, 1975, Bill and accompanying papers Indefinitely Postponed in non-concurrence.

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

On motion by Mr. Trotzky of Penobscot, 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 Richard R. Figoli who is Widely Endearred for his Generous and Compassionate Acts for the Mentally Handicapped of Maine

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. 1714)

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 the St. Regis Paper Company and Other Companies Located Along the Penobscot River Whose Efforts in Cleaning up the Penobscot Have Brought About the Return of Big Fish to That River

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. 1713)

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 the Leavitt Area High School Girls Varsity Softball Team Coached by Elaine Chenard Mountain Valley Conference Champions for the Academic Year 1975

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. 1712)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

**Joint Order**

WHEREAS, legislation, L. D. 1794, "An Act Relating to the Statutes Concerning Charitable Solicitations," which would substantially increase the State's regulation and inspection of the fund-raising efforts of charitable organizations, has been introduced in the 107th Legislature; and

WHEREAS, there is question as to the need of such increased regulation and, if there is such need, as to the form of such regulation and as to which agency of state government should conduct it; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Council be authorized, through the Joint Standing Committee on Business Legislation to study the subject matter of L. D. 1794; and be it further

ORDERED, that the Department of the Attorney General, the Bureau of Consumer Protection within the Department of Business Regulation, the Department of Health and Welfare and the Department of State be respectfully directed to cooperate with the committee and provide such technical and other assistance as the committee deems necessary; and be it further

ORDERED, that the Council report the results of its findings together with any proposed recommendations and necessary implementing legislation to the next special or regular session of the Legislature; and be it further

ORDERED, Upon passage in concurrence, that suitable copies of this order be transmitted forthwith to said agencies as notice of this directive. (H. P. 1711)

Comes from the House, Read and Passed.

Which was Read.

On motion by Mr. Speers of Kennebec, tabled pending Passage.

**Joint Order**

WHEREAS, the harvesting and sale of pulpwood and timber is an industry vital to the State of Maine; and

WHEREAS, there are many industry buyers throughout the State who purchase pulpwood and timber from wood harvesters; and

WHEREAS, there have been numerous complaints that the method used by wood buyers to measure the quantity of pulpwood and timber purchased varies from buyer to buyer and from location to location; and

WHEREAS, these complaints indicate the need for a thorough examination of the various methods used to measure wood in this State, including weight scale and butt scale methods; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Council be authorized, through the Joint Standing Committee on Agriculture, to study the methods Maine's pulpwood and timber buyers use to measure the quantity of wood they buy, to determine whether or not these methods are uniform, or, if not, whether they vary unfairly; to determine whether or not current methods of wood measurement are easily understood and applied and to determine the need for uniform methods of

wood measurement, including weight scale and butt scale methods, to be used in all transactions involving the sale of wood in this State; and be it further

ORDERED, that the Council report the results of its findings together with any proposed recommendations and necessary implementing legislation to the next special or regular session of the Legislature; and be it further

ORDERED, upon passage in concurrence, that suitable copies of this Order be transmitted forthwith to said agencies as notice of this directive. (H. P. 1710)

Comes from the House, Read and Passed.

Which was Read.

On motion by Mr. Speers of Kennebec, tabled pending Passage.

**Communications**

**STATE OF MAINE**

One Hundred and Seventh Legislature  
House of Representatives

Office of the Clerk

Augusta, Maine 04330

June 16, 1975

Honorable Harry N. Starbranch  
Secretary of the Senate

107th Legislature

Augusta, Maine

Dear Mr. Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Amending Laws Relating to Hospitalization of the Mentally Ill" (S. P. 368) (L. D. 1204):

Representatives:

TIERNEY of Durham  
BURNS of Anson  
SUSI of Pittsfield

The Speaker also appointed the following conferees to the Committee of Conference on Bill "An Act Relating to Political Fundraising by State Employees" (H. P. 1382) (L. D. 1686):

Representatives:

BOUDREAU of Portland  
HUGHES of Auburn  
STUBBS of Hallowell

Respectfully,

Signed:

EDWIN H. PERT  
Clerk of the House

Which was Read and Ordered Placed on File.

**STATE OF MAINE**

One Hundred and Seventh Legislature  
House of Representatives

Office of the Clerk

Augusta, Maine 04330

June 16, 1975

Honorable Harry N. Starbranch  
Secretary of the Senate

107th Legislature

Augusta, Maine

Dear Mr. Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Resolution, Proposing an Amendment to the Constitution to Abolish the Executive Council and Reassign its Constitutional Powers to the Governor (H. P. 16) (L. D. 24):

Representatives:

ROLDE of York  
COONEY of Sabattus  
SUSI of Pittsfield

Respectfully,  
EDWIN H. PERT  
Clerk of the House

Which was Read and Ordered Placed on File.

**Enactors**

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

An Act to Clarify Title to Land Where Marital Release is Omitted from Conveyance. (H. P. 876) (L. D. 1050)

An Act to Clarify the Severance Pay Statute. (H. P. 1082) (L. D. 1362)

An Act to Revise the Charter of the Augusta Water District. (H. P. 1427) (L. D. 1796)

An Act Relating to the Division of Hundredweight Fees between the Maine Milk Commission and the Maine Dairy Council Committee. (S. P. 417) (L. D. 1374)

An Act Relating to Improved Property Tax Administration. (H. P. 882) (L. D. 1150)

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

An Act to Revise the Fish and Game Laws. (H. P. 1425) (L. D. 1817)

An Act to Enable the Department of Health and Welfare to Conduct a Program to Provide Free Drugs to Elderly Disadvantaged Maine Citizens. (H. P. 1413) (L. D. 1683)

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

An Act Relating to the Regional Technical Vocational Centers and the Vocational Education Regions. (H. P. 1278) (L. D. 1811)

An Act Creating the Maine Criminal Code. (S. P. 113) (L. D. 314)

An Act to Revise the Laws Relating to Financial Institutions. (H. P. 831) (L. D. 1134)

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.

**Indefinitely Postponed**

An Act Concerning Municipal Property Tax Bills. (H. P. 940) (L. D. 1313)

Comes from the House, Indefinitely Postponed.

On motion by Mr. Berry of Cumberland, Indefinitely Postponed in concurrence.

**Emergency**

An Act to Make Certain Revisions in the Form of the State Budget Document. (S. P. 561) (L. D. 1927)

This being an emergency measure and having received the affirmative votes of 26 members of the Senate was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

**Communications**

**STATE OF MAINE**

One Hundred and Seventh Legislature  
Committee on Appropriations and  
Financial Affairs

June 13, 1975

Senator Joseph Sewall  
President of the Senate

Subject: Department of Mental Health and Corrections

Dear Mr. President:

The departmental budget as proposed in L. D. 1909, the Current Services bill, which has been signed into law by the Governor contains an amount of \$587,266 in a Contingency account to be used by the Commissioner for whatever emergency items arise during the next biennium. This

amount is over and above the original recommended figure of the Governor. In addition, the total budget has been realigned to fit the needs of the department more realistically according to the recommendation of the new Commissioner.

H. P. 1674 passed in the House June 5, 1975 and in the Senate June 6, 1975 directs the Committee on Appropriations and Financial Affairs to report out a bill to take action to enable the Department of Mental Health and Corrections to fill staff vacancies resulting from the "freeze on hiring" that have caused hardships at state institutions. It is the unanimous feeling of the Committee that this should be an administrative decision of the Commissioner as to whether this need exists and if there is a high priority set on this matter, funds are available in the current services budget by use of the Contingent account. Until all administrative possibilities have been exhausted, the Committee feels there is no need to report out a bill as directed by the Joint Order.

Signed:

Sincerely,

DAVID G. HUBER  
Senate Chairman  
DOUGLAS M. SMITH  
House Chairman

Which was Read.

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

Mr. BERRY: Mr. President, I would like to invite the attention of the Senate to this document. I think it is an extremely able presentation of a problem that could become emotional and partisan and everything else. I note with interest that it is signed by a member of each party, and I think that the Appropriations Committee deserves a great deal of credit for solving this problem this way.

The PRESIDENT: Is it now the pleasure of the Senate that this communication be placed on file?

Thereupon, the Communication was placed on file.

Mr. Conley of Cumberland was granted unanimous consent to address the Senate.

Mr. CONLEY: Mr. President and Members of the Senate: It seems strange to me that today two items such as those that appeared on our calendar a short time ago, and I make reference to An Act Creating the Maine Criminal Code and, secondly, An Act to Revise the Laws Relating to Financial Institutions, both were passed in this chamber under the swift gavel as executed by the President of the Senate. I just personally would like to commend both the Chairman of the Judiciary Committee, Senator Clifford and Senator Merrill, and also Senator Thomas, the Chairman of the Business Legislation Committee, along with his very able assistants, Senator Johnston and Senator Reeves.

It has been obvious to us that these have been two of the most lengthy and controversial bills that were perhaps handled during this legislative session. We know that they came into the session very early in January, that the Committees have been struggling with them off and on ever since the convening of this legislature, and it just seems strange this afternoon, knowing all the debate that has taken place at the other end of the corridor relative to both of these matters, that the wisdom of the Senate would allow these to become law without any person here attacking the intent of these two fine pieces

of legislation. Again, I just want to offer my congratulations to all members of both those committees.

#### Committee Reports Senate

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

Bill, "An Act Appropriating Funds for Emergency Repair of the Dam at Annabessacook Lake in Kennebec County." (S. P. 553) (L. D. 1922)

#### Leave to Withdraw

Mr. Wyman for the Committee on Taxation on, Bill, "An Act Exempting Residential Uses of Water, Gas and Electricity from the Sales Tax." (S. P. 478) (L. D. 1611)

Reports that the same be granted Leave to Withdraw.

Which report was Read and Accepted.

Sent down for concurrence.

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

Bill, "An Act to Provide for the Maintenance of Neglected Dams and Existing Water Levels in Lakes Impounded by Dams." (H. P. 1459) (L. D. 1797)

Tabled — earlier in today's session by Senator Collins of Knox.

Pending — Passage to be Engrossed.

Mr. Collins of Knox then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-323, was Read.

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

Mr. CYR: Mr. President and Members of the Senate: The good Senator from Knox, Senator Collins, has assured me that this amendment will protect us from two things, two dangers, that I brought to the attention of the Senate in past debates: one is that we do not want to create another bureaucracy to take care of dams in the State of Maine. For the past three years there has been some forces unleashed in the State of Maine to do such a thing, to create a bureaucracy in the State of Maine to take care of these dams. Secondly, if these dams become the property of the State of Maine, and the State of Maine is financially responsible for the repair and the reconstruction of these dams, it is going to make 1994 blush.

I have full confidence in the integrity of the good Senator from Knox, he has a very high credibility in my book, and I noticed in his amendment he goes back to colonial times, so I am pretty sure that he has researched this quite thoroughly and that it is now constitutional and that we are going to be protected from those two dangers. For that reason, I am in favor of the adoption of this amendment.

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

Mrs. CUMMINGS: Mr. President and Members of the Senate: There is a third danger that this amendment does nothing to alleviate, and that is over on the second page it says that any person owning or operating a dam shall annually register. Well, I think this is too much. I think that the Soil and Water Conservation Commission will find that if they have to take all these registrations of all the dams through the State of Maine every year that they will then have to have more space and more clerks and more filing cabinets, and it will have the effect of creating another

and much larger section of the state bureaucracy, which is big enough. If they want to register, wouldn't once be enough? Yes, the dams can change, but if these forms, which we know not what they are going to be like nor how much information the Soil and Water Conservation Commission is going to ask to have on them, if they are going to ask for them on every change that has been made, either by nature or man, intentionally or unintentionally, it could get into quite a program.

I am not fearful of this amendment, and I am not going to make a motion at the moment, but I don't think it is a very good amendment.

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

Mr. BERRY: Mr. President, it is a pleasure to march shoulder to shoulder with my assistant majority floor leader on this particular one, and I just invite the attention of Senator Cyr of Aroostook to the fact that the tremendous forces have been unleashed and they certainly are running rampant right here.

As the good Senator Cummings from Penobscot pointed out, why in the world do we need to register annually with the commission on forms provided for the commission, and how many dams is it we have in the state — 600-odd dams?

Senator Collins' historical research leaves me a little bewildered. He says here that the legislature declares that it is desirable for littoral proprietors and the public to have water levels in bodies of water impounded in dams maintained at the level which such bodies have traditionally maintained. Now, I ask you, let's just take Wyman Dam, the dam that gives us the juice we have got right here now, that goes up and down. What is the level that is maintained there traditionally? What is the level that is maintained traditionally behind any dam? First, what time of the year? Does it have flashboards? At what stage is the drawdown? This very definitely is not a thing that we should be putting on the books of the State of Maine. I am very disappointed. In my opinion, this goes even further to obfuscate the problem.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I suggest that the fears of the good Senator from Cumberland, Senator Berry, are not founded in fact. This bill is really directed at what we call the neglected dam. It is not directed at Wyman Dam. In fact there are specific exceptions for all dams where there is active beneficial function going on. Some of those functions are specifically described, such as the function in the generation of hydroelectric power or similar power, uses for downstream sluicing, movement of sewage, and this sort of thing. Every commercial dam would be excepted.

A careful inventory of all of Maine's dams was done in 1974. There were just over 1,000 dams. The number that we are pointing at here is, I believe, 52. These dams are ones that are badly neglected, and they are mostly in areas where there is either no commercial development and no recreational development, or there are in 22 cases active cottage developments around these lakes. The original economic purpose of the dams, usually to impound water for the turning of the wheels of saw mills or grist mills or to impound a water supply for drinking or perhaps an industrial use, has since passed along.

This change in the times has caused the owners of these dams to let them fall into disrepair.

The good Senator from Penobscot, Senator Cummings, pointed out to me last week that the previous legislature had enacted the section relating to abandoned dams, and because of this we stripped out of the bill certain sections that related to abandoned dams. We stripped out of it the section that compelled the owner to either make a gift to certain entities or to turn it over to the state so that the State of Maine would not have to become involved in the business of owning and operating dams.

The concern is that around these ponds or lakes, 52 of them have grown-up properties owned by a great many ordinary folks in Maine, where they have a summer cottage or camp, and they have put an investment into it. There are quite a few millions of dollars represented in the cottage properties around these lakes, and in some of these cases they are confronted with the situation where the owner of the dam, no longer having any economic benefit, and perhaps living in some other part of the state or in a different state, just no longer has any incentive to keep the dam repaired. Well, eventually, of course, these neglected dams — and I distinguish neglected from abandoned dams because we have a separate statute to work with on those — these neglected dams are going to rot away and the bodies of water impounded behind those dams are going to go down the stream. Now, they may go down the stream in a manner which causes a flood down below, in which case there is other legislation about emergency preparedness that could be utilized, but more likely the deterioration will be gradual. The rotting plank by plank and leak by leak will occur, and gradually what is now a beautiful pond or lake will be a trickling brook or a small stream and there will be lots of tremendous mudflats between the shore and the stream. Now, this has actually happened in one or two places.

So what we are providing here is an opportunity for the people around that lake to petition — there has to be 10 of them sign a petition — and they get the Soil and Water Conservation Commission to hold a hearing, to give notice, and they hear evidence about water levels. Now, the evidence that they hear takes into account all the things that worries the good Senator from Cumberland, Senator Berry, because seasonal fluctuations are specifically mentioned, the needs of downstream parties are to be considered, rainfall, meteorological conditions of various types. All of the things that anyone could think of that affect a lake's water level have to be considered, including history. And history is, of course, very important in many of these lakes because for 20, 40, 50, 60, even 80 years, many of these lakes have been impounding water and furnishing to the people, sometimes the public, in the form of boating and fishing, sometimes to cottage owners, to people who swim, waterski, and boat and all, a very important recreational opportunity. This is a very carefully designed method of bringing this whole matter to the attention of the owner. He is not compelled, but if a water level gets established, there is a procedure established here that should be helpful to these owners in protecting the values that they have built up over the years.

I submit that this is a fairly modest approach. It is not a coercive approach. We had to take out a lot of language that

potentially was unconstitutional, as taking away property without compensation. And yet it tries to recognize that this is not 1890 or 1910 and that the functions of these dams have changed, and that other people ought at least to have a chance to try to improve their situation.

Now, Senator Cummings's objection to an annual registration was a point that I debated with the original sponsor of the bill and with representatives of lake associations in particularly my area of the state. I raised the same question: why have an annual registration? Why not a single one or perhaps a biennial one, as we register our boat every two years, our drivers license every two years? Well, the practical reason is to give a reporting of status to the bureau, which is already in existence, and to provide the money to keep track of that status so that if a dam is falling into disrepair or an alteration is intended, there will be an opportunity for the people concerned to know about it and for the engineer already on the payroll of the State of Maine to go and take a look at it and find out whether property values and the public's privileges in recreation are being jeopardized.

The bill will probably raise nine to ten thousand dollars as amended. We took out the requirement that the federal government or the state government file annually. It is largely the private owners and in some cases municipalities or water districts that would file. There is a \$10 registration fee a year.

These rights, we must remember, exist because the State of Maine granted those rights. These rights would not have arisen had not this legislature about 100 years ago established the mill dam laws in most cases.

The colonial ordinance that has been referred to going back to 1641 established the idea that great ponds — a great pond is a body of water more than 10 acres in size or an artificial body of water more than 30 acres in size — these great ponds are basically held in trust by the state for the benefit of all the people. The water in these ponds belongs to the state, the people. It doesn't belong to the littoral proprietors. It doesn't belong to a water company, if a water company happens to be owning the dam. And this principle which goes away back before this country was founded, you see, was abrogated in part by legislative action, so that we are in a very small degree returning to the idea of public trust by giving the public a chance to get in on the maintenance of the water levels that have existed there so long. And there are cases — I did quite a lot of research over the weekend, and I found that there are cases in the State of Maine that say that when a water level has become long established, and people have long depended on that established level, that those people who have long depended on it acquire some rights, not complete; the cases are sometimes conflicting, they tend to be more in rivers than in lakes, but nonetheless, there are some rights being recognized, and this is a modest attempt to respect some of these rights.

The PRESIDENT: The pending question is the adoption of Senate Amendment "A". Is it the pleasure of the Senate to adopt Senate Amendment "A"?

The Chair recognizes the Senator from Cumberland, Senator Berry.

Thereupon, on motion by Mr. Berry of Cumberland, a division was had. 17 having voted in the affirmative, and eight having voted in the negative, Senate Amendment "A" was Adopted and the Bill, as

Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

On motion by Mr. Conley of Cumberland, the Senate voted to take from the table the following unassigned matter:

Senate Report — from the Committee on Business Legislation — Bill, "An Act Relating to Credit Unions." (S. P. 114) (L. D. 379) Leave to Withdraw.

Tabled — June 5, 1975 by Senator Conley of Cumberland.

Pending — Acceptance of Report.

Thereupon, the Leave to Withdraw Report of the Committee was Accepted.

Sent down for concurrence.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following unassigned matter:

Bill, "An Act to Require Public Hearings on the Appointments of Departmental Commissioners." (S. P. 429) (L. D. 1377)

Tabled — April 11, 1975 by Senator Speers of Kennebec.

Pending — Enactment.

(In the House — Passed to be Enacted.)

Thereupon, 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.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following tabled and unassigned matter:

House Reports — from the Committee on Taxation — Bill, "An Act Amending the Elderly Householders Tax and Rent Refund Act to Expand Eligibility to Recipients of Supplemental Security Income." (H. P. 104) (L. D. 101) Majority Report — Ought to Pass as amended by Committee Amendment "A" (H-343); Minority Report — Ought to Pass in New Draft under New Title; Bill, "An Act Amending the Elderly Householders Tax and Rent Refund to Expand Eligibility to Recipients of Supplemental Security Income and Funding the Cost of this Wider Eligibility through an Increase in the State Personal Income Tax Rates." (H. P. 1585) (L. D. 1882).

Tabled — May 21, 1975 by Senator Speers of Kennebec.

Pending — Motion of Senator Merrill of Cumberland to Accept the Majority Report.

(In the House — (H. P. 104) (L. D. 101) Passed to be Engrossed as amended by Committee Amendment "A" (H-343) and House Amendment "A" (H-356).)

Thereupon, the Majority Ought to Pass Report of the Committee was Accepted in concurrence and the Bill Read Once. Committee Amendment "A" and House Amendment "A" were Read and Adopted in concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

On motion by Mrs. Cummings of Penobscot,

Adjourned until 10 o'clock tomorrow morning.