

# MAINE STATE LEGISLATURE

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**Legislative Record**

OF THE

**One Hundred and Seventh Legislature**

(First Special Session)

OF THE

STATE OF MAINE

**1976**

KENNEBEC JOURNAL  
AUGUSTA, MAINE

## SENATE

Friday, April 2, 1976

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

Let us pray. In the closing days of this more difficult and perplexing session; I pray that we will continue to respect those who oppose us, consider their arguments, and vote responsibly for what we honestly believe to be the best for the State of Maine. Amen.

Reading of the Journal of yesterday.

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

Bill, "An Act to Revise and Clarify the Freedom of Access Law." (H. P. 2226) (L. D. 2316)

In the Senate March 31, 1976, Passed to be Engrossed as Amended by House Amendments "B" (H-1044), "E" (H-1110), "F" (H-1137) and "G" (H-1146), in non-concurrence.

Comes from the House, Passed to be Engrossed as Amended by House Amendments "A" (H-1034), "B", "E", "F", "G" and "H" (H-1186), in non-concurrence.

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

Thereupon, on motion by Mr. Speers of Kennebec, tabled until later in today's session, pending Consideration.

**Non-concurrent Matter**

Bill, "An Act to Protect Owners and Bona Fide Purchasers of Real Property from Unrecorded Mechanics' Liens and to Protect Them from Double Payment to Contractors and Subcontractors." (H. P. 2126) (L. D. 2274)

In the Senate March 30, 1976, Passed to be Engrossed as Amended by Committee Amendment "A" (H-1114), in concurrence.

Comes from the House, Passed to be Engrossed as Amended by Committee Amendment "A", as Amended by House Amendment "A" Thereto (H-1181), in non-concurrence.

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

Mr. MERRILL: Mr. President and Members of the Senate: I think it is appropriate that we recede and concur and, in doing so, adopt House Amendment 1189. Under Maine case law, a mortgagee is considered to be the owner because we are a so-called title state. So by adopting this amendment, we are not changing Maine law under this bill; we are merely leaving the bill as it is because this is already in the case law. I think it is appropriate that we recede and concur with the House because Maine case law takes care of the purpose for which this language was originally in the bill, and I so move.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, now moves that the Senate recede and concur with the House. Is this the pleasure of the Senate?

It is a vote.

**Communications**

April 1, 1976

Honorable Harry N. Starbranch  
Secretary of the Senate  
107th Legislature  
Augusta, Maine  
Dear Mr. Secretary:

The House today voted to Adhere to its former action whereby it Indefinitely Postponed Bill "An Act to Give Counties Power to Assess and Collect Their Own Taxes" (H. P. 2128) (L. D. 2275).

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  
Committee on Energy

March 26, 1976

Senator Jerrold B. Speers, Chairman  
Legislative Council  
State House

Augusta, Maine 04333  
Dear Senator Speers,

In accordance with House Paper 1716, directing the Committee on Energy "to determine the number of unused and abandoned hydroelectric dams in this State, to determine the potential in Maine for the production of electrical energy by hydroelectric means, and to determine methods for the restoration of Maine's unused and abandoned dams to full production of electric power," we enclose herein the final report of the Committee.

Respectfully submitted,

Signed:

JOHN B. ROBERTS  
Co-Chairman, Energy Committee

Signed:

ROBERT M. FARLEY  
Co-Chairman, Energy Committee  
(H. P. 2273)

Which was Read, and with accompanying papers Ordered Placed on File.

**Orders**

On motion by Mr. Berry of Cumberland,  
WHEREAS, the availability of quality legal services is essential to the well-being of all Maine citizens; and

WHEREAS, public awareness of the availability of legal services is essential to public benefit from the legal system; and

WHEREAS, the Legislature has the responsibility to oversee the legal profession in the same manner as the Legislature exercises responsibility to oversee the operations of other professions within the State; now, therefore, be it

ORDERED, the House concurring, that there is hereby created a Special Commission on the Quality and Availability of Legal Services in the State of Maine, which shall be composed of 2 Members of the Senate, to be appointed by the President of the Senate, 3 Members of the House, to be appointed by the Speaker of the House and 4 members of the public, to be appointed by the Governor. The members of the commission shall receive no compensation for their services, but shall be reimbursed for necessary expenses; and be it further

ORDERED, that this Special Commission shall conduct a study and make recommendations to the legislature regarding:

A. Practices relating to handling of public grievances and discipline of members of the Bar and public awareness of and participation in such mechanisms;

B. The necessity for legislation concerning the Board of Examiners for the Examination of Applicants for Admission to the Bar for the purposes of controlling admissions to the Bar, registering attorneys, receiving and investigating public grievances and recommending disciplinary actions to the Supreme Judicial Court;

C. The extent to which advertising of availability of specified legal services and the costs of such services would affect the availability and quality of legal services to the Maine public; and

D. Alternatives available to the public to provide quality low-cost legal services and legal representation; and be it further

ORDERED, that the Special Commission shall complete this study by March 1, 1977 and submit to the first regular session of the 108th Legislature within the same time period its findings and recommendations, including copies of any recommended legislation in final draft form; and be it further

ORDERED, that there is allocated from the Legislative Account the sum of \$2,000 for the necessary expenses of the Special Commission on the Quality and Availability of Legal Services; and be it further

ORDERED, upon passage in concurrence, and after the appointment of its members, that a suitable copy of this Order shall be forwarded to each member of the commission.

Which was Read. (S. P. 788)

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

Mr. BERRY: Mr. President and Members of the Senate: The purpose of this order is to permit a careful legislative and outside, shall we say, committee to be formed to study certain situations which have arisen in the legal profession and to treat them under one study group. There has been interest expressed in the past and I am sure there still is by what I might — and I hope I am not mistaken — indicate as consumer groups, as to the effectiveness of legal services being available to the people of the State of Maine.

The judicial system at the present time, and by that I mean the court, is concerned at the present time with the problem of registration of attorneys, some of the mechanics of the bar association treatment of grievances, and other details that are of somewhat an administrative nature in connection with the legal profession.

It seems advisable for the legislature to afford the opportunity for a good thorough, studious treatment of the situation in which the legislature would have perhaps final say. This is only a study order but I cannot overemphasize the importance of it and would hope at the proper time this would receive the complete backing of the legislature.

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

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

**Committee Reports**  
**House**

**Ought to Pass — As Amended**

The Committee on Marine Resources on, Bill, "An Act to Clarify the Laws Relating to Marine Resources." (H. P. 2010) (L. D. 2192)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-1145).

Comes from the House, the Bill Passed to be Engrossed as Amended by House Amendment "A" (H-1168), as Amended by House Amendment "A" Thereto (H-1179), and House Amendment "B" (H-1182).

Which report was Read and Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted. House Amendment "A" was Read. House Amendment "A" to House Amendment "A" was Read and Adopted in concurrence and House Amendment "A", as Amended by House Amendment "A" Thereto, was Adopted in concurrence. House Amendment "B" was Read and Adopted in concurrence.

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

Mr. SPEERS: Mr. President, before I assume there will be a motion to engross this bill, I note that the other body did not adopt the committee amendment that was reported out of the committee, and I am wondering if any member of the committee on Marine Resources might explain the import of the committee amendment and the various House amendments that we have just adopted.

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

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: House Amendment "A" replaces

Committee Amendment "A" and does practically the same thing, with a few minor details, so we are really talking about House Amendment "A", House Amendment "A" to that, and House Amendment "B". The thrust of all of these amendments and the bill itself is to bring a uniformity to the marine resource law.

One of the major things that was done in the legislation is to establish the fact that residency for marine licenses is now set at six months, which is an attempt to straighten out the residency requirements. I think we will recall the Supreme Court ruled that residency requirements could not hold at a year and was interpreted by the court to mean an artificial and illegal attempt to keep people out of the lobster and marine fishery business. Subsequently, the present Attorney General has ruled that he finds no problem if we were to set the residency required at six months. Up until this time, and without this legislation, anybody can apply for a lobster license or any other marine fishery license with no residency proof at all. You can move into the state today and go right down and get your license. So this is one of the major things we have done, and we believe and hope that a court test which probably will follow will hold that the six months' purposes are perfectly legal.

I think it fair to say the other changes merely bring uniformity amongst the different classes of licenses, provide for uniform appeal, and uniform promulgation of rules and regulations.

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

Mr. SPEERS: Mr. President, noting that the Senate has adopted the Committee Amendment "A", I would now make the motion that the Senate reconsider its action whereby it adopted Committee Amendment "A".

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

The motion prevailed.

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

Thereupon, under suspension of the rules, the Bill, as Amended, was Read a Second Time and Passed to be Engrossed in concurrence.

Under further suspension of the rules, sent forthwith to the Engrossing Department.

#### Divided Report

Two members of the Committee on Education on, Bill, "An Act to Provide for a Line Budget Procedure for All School Systems." (H. P. 2208) (L. D. 2308)

Reported in Report "A" that the same Ought to Pass as Amended by Committee Amendment "A" (H-1150).

Signed:

Senator:

BERRY of Androscoggin

Representative:

LEWIS of Auburn

Eight members of the same Committee on the same subject matter reported in Report "B" that the same Ought to Pass as Amended by Committee Amendment "B" (H-1151).

Signed:

Sensors:

KATZ of Kennebec

THOMAS of Kennebec

Representatives:

CARROLL of Limerick

LYNCH of Livermore Falls

TYNDALE of Kennebunkport

MITCHELL of Vassalboro

CONNOLLY of Portland

INGEGNERI of Bangor

Three members of the same Committee on the same subject matter reported in Report, "C" that the same Ought Not to Pass.

Signed:

Representatives:

BAGLEY of Winthrop

POWELL of Wallagrass

FENLASON of Danforth

Comes from the House, Report "B" Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "B" (H-1151), as Amended by House Amendment "A" There to (H-1184).

Which reports were Read.

Mr. Katz of Kennebec moved that the Senate accept the Ought to Pass as Amended Report "B" of the Committee.

The PRESIDENT: The Senator has the floor.

Mr. KATZ: Mr. President and Members of the Senate: This was a significant bill that the Governor proposed as L.D. 2308, in which the bill would have mandated that every unit in the state accept a line budget posture with respect to its school budget.

The committee wrestled with this for just a little bit and we came up with two amendments. The amendments actually replace the bill, so you can direct your attention away from L.D. 2308 and take a look at the two amendments. You have your choice today of two postures. One says that every community in the state, if it wishes, may vote to change the nature of its budget. If they wish to approve a line budgeting system, they may do so. If they wish to have three categories or five categories or ten categories, this is local decision making and it is left up to the local voters to decide.

The other approach says that automatically with the passage of this bill everybody will go to a line budget procedure, and if they wish then to get back to a non-line budget procedure they are going to have to take positive action.

The motion which I have made supports the following point of view: it says that there are many different kinds of communities in the State of Maine and they have all kinds of different perceptions as to what kind of access they would like to have to the school budget. In some communities in the state they may be perfectly satisfied with the present system, and in some communities where the education budget is a very, very heavy issue, they may wish to change and go to a line budget with sixteen different categories. And it is possible, for example, in the City of Augusta that the City of Augusta may be satisfied with going to three or four broad categories. The majority of the committee felt that in the interest of local decision making and local control that Report "B" accomplishes exactly that and tells each committee that they may do that which they wish to do.

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

Mr. CIANCHETTE: Mr. President, I would like to pose a question through the Chair to any Senator who may care to answer, and that is, assuming that the town or a school administrative district adopts a line budget procedure, and let's say there are fifteen lines, would it be possible under the law at that time for a special interest group to come to the budget meeting and increase any one of those lines? For example, could the instructional account be increased a substantial amount and maybe the athletic account decreased? If my question is clear, I hope someone would answer that.

The PRESIDENT: The Senator from Somerset, Senator Cianchette, 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, the Senator is going to have to defer just a moment. If there is anyone else that wishes to debate this, in the interest of time, I would urge them to permit me

to defer the answer to the question while they debate it.

Mr. President, it is my impression that the voters would have full control over the nature of the individual items within the line budgeting, in answer to the question.

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

Mr. MERRILL: Mr. President, I want to make sure that I understand the answer to the question, or maybe I didn't even understand the question. But I know traditionally in towns that are run by the town meeting form of government that it is impossible for the voters to increase the total number of dollars on the line. Of course, in the past we have been dealing with a lump sum. And I don't offhand see anything in this amendment that would change that requirement, so if we had a line item budget it would seem, at least as a curbstone opinion, that anything could be decreased but not increased. If I am wrong, I am anxious to find out.

I also just have a specific and I think much simpler question, just to make sure that I am reading the bill correctly. In the case of my own city, the City of Portland, if we were to accept this Committee Amendment "B", and there would be in reality no change, the city would simply be able to do what it has the power to do already, and that is, through the home rule charter amendment process, to go to a line budget. I wonder if I am correct in that reading, and I stand ready to be corrected on the other matter.

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

Mr. KATZ: Mr. President, I have to admit that I was confused because that issue did not come up. In retrospect in reading it, which is always very helpful, this amendment merely refers to existing home rule procedures and does not change them.

With respect to the issue of the City of Portland, the answer to the question is found within the charter provisions of the City of Portland with respect to change.

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

Mr. BERRY: Mr. President, if I may, on the first question that was asked by the good Senator from Somerset, Senator Cianchette, I think the House amendment which is attached to Committee Report "B" addresses the situation of additional appropriations, and there is a set procedure for that.

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

Mr. CIANCHETTE: Mr. President, I appreciate the help of the Senators but I feel that the question still hasn't been answered, and I think it may take a little more time. So, because I am for home rule and support the idea of better control, I would like to see the bill progress to the amendment stage and then be tabled until we can assure ourselves of what we are doing with this bill.

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

Mr. MERRILL: A parliamentary inquiry, Mr. President.

The PRESIDENT: The Senator may state his inquiry.

Mr. MERRILL: Mr. President and Members of the Senate: If we do adopt Committee Amendment "B", which we are told really enacts the whole bill, would we not then have to reconsider our action if we wished to amend it?

The PRESIDENT: The Chair would ask the Senator from Cumberland, Senator Merrill, to restate his question.

Mr. MERRILL: If we accept Committee Report "B", we will be accepting the bill as amended, I assume, by Committee Amendment "B".

The PRESIDENT: The Chair would advise the Senator that we would not be accepting it until we read and adopt Committee Amendment "B".

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, may I suggest that the committee report be accepted, that we also accept the committee amendment, which is the bill, and that we assign the second reading for later in today's session, at which time we will have a chance to address ourselves to the questions.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from Kennebec, Senator Katz, that the Senate accept Committee Report "B". Is this the pleasure of the Senate?

The motion prevailed.

Thereupon, on motion by Mr. Merrill of Cumberland, tabled until later in today's session, pending First Reading of the Bill.

#### Divided Report

The Majority of the Committee on Marine Resources on, Bill, "An Act Concerning Shellfish Licensing." (H. P. 2131) (L. D. 2277)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-1158).

Signed:

Senators:

BERRY of Cumberland  
REEVES of Kennebec  
CUMMINGS of Penobscot

Representatives:

WEBBER of Belfast  
JENSEN of Portland  
GREENLAW of Stonington  
MACKEL of Wells  
CONNERS of Franklin  
CURTIS of Rockland  
JACKSON of Yarmouth  
MILLS of Eastport  
BLODGETT of Waldoboro

The Minority of the same Committee on the same subject matter reported that the same be granted Leave to Withdraw.

Signed:

Representative:

POST of Owl's Head

Comes from the House, Bill and accompanying papers Indefinitely Postponed.

Which reports were Read.

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

Mr. BERRY: Mr. President, with two comments, namely: no mention should ever be made in this body of action in the other chamber, and secondly, never overlook the ability and power of a woman, I move that this bill and all accompanying papers be indefinitely postponed.

The PRESIDENT: The Senator from Cumberland, Senator Berry, moves that this Bill and all its accompanying papers be indefinitely postponed. Is this the pleasure of the Senate?

The motion prevailed.

#### Second Readers

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

House — As Amended

Bill, "An Act Relating to the Effective Dates for School Lunch Programs and Occupational Safety and Health in Public Employment." (H. P. 2207) (L. D. 2307)

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

#### Enactors

The Committee on Engrossed Bills reported as truly and strictly engrossed the following: An Act to Make Health Care Projects Eligible

for Bonding under the Maine Municipal Securities Approval Act. (H. P. 1899) (L. D. 2079)

An Act to Set the Unemployment Insurance Contribution Rate for New Employers at the Average Contribution Rate for all Employers in the Previous Year. (H. P. 2144) (L. D. 2284)

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

An Act to Improve Solid Waste Management. (H. P. 2090) (L. D. 2249)

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

Mr. WYMAN: Mr. President and Members of the Senate: This legislature had a good solid waste bill, L. D. 2250, before it. It would have cost the wholesalers approximately one million dollars, but it would have accomplished a lot in solving our litter problems. However, in its wisdom, the legislature defeated this measure.

Now we have another bill before us, somewhat meaningless, but nevertheless a bill which will accomplish a little. The effective date has been postponed, the necessary appropriation has been removed, and a referendum has been attached. Nevertheless, in spite of it all, it will in a small way improve our present litter law.

Although I would prefer Maine to have the best, if we can't have the best, then I will support the second best and vote for this bill which will provide some improvement. Thank you.

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

Mr. CARBONNEAU: Mr. President and Members of the Senate: I don't wish to speak very long on this thing, except that I would like to again emphasize that this is a bottle bill which was defeated in the last session of the legislature under the name of Improved Solid Waste Management. I would like you to think a little bit before you vote on this thing, and I will request a "Yea" and "Nay" vote to give you a little more time to think about it.

The PRESIDENT: Is the Senate ready for the question? The pending question is the enactment of L. D. 2249, An Act to Improve Solid Waste Management. 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 on the enactment of 2249 please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question before the Senate is the enactment of L. D. 2249, An Act to Improve Solid Waste Management. A "Yes" vote will be in favor of enactment; a "Nay" vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators E. Berry; R. Berry; Collins, Conley, Corson, Cummings, Curtis, Cyr, Gahagan, Graffam, Graham, Greeley, Hichens, Huber, Jackson, Katz, McNally, Merrill, O'Leary, Pray, Reeves, Roberts, Speers, Thomas, Trotzky, Wyman.

NAYS: Senators Carbonneau, Cianchette, Danton, Marcotte.

ABSENT: Senators Clifford, Johnston.

A roll call was had. 26 Senators having voted in the affirmative, and 4 Senators having voted in the negative, with two Senators being absent, the Bill was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

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

Mr. TROTZKY: Mr. President, I move the Senate reconsider its action whereby this bill

was passed to be enacted, and hope the Senate will vote against my motion.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, now moves the Senate reconsider its action whereby this bill was passed to be enacted. Will all those Senators in favor of reconsideration please say "Yes"; all those opposed will please say "No".

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

#### Emergency

An Act Concerning the Salary of Knox County Register of Probate, Deputy Treasurer, Clerk Hire and Legal Fees of the York County Treasurer. (H. P. 2230) (L. D. 2318)

This being an emergency measure and having received the affirmative votes of 30 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.

#### Orders of the Day

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

Study Report — Health and Institutional Services Committee — study relative to Require the Department of Human Services to Reopen the Itinerant Office in Belfast pursuant to H. P. 2014 of the 107th Legislature submit its findings and to report that the accompanying Resolve to Require the Department of Human Services to Reopen the Itinerant Office in Belfast. (H. P. 2269) (L. D. 2336) be referred to this Committee for public hearing and printed pursuant to Joint Rule 3.

Tabled — April 1, 1976 by Senator Speers of Kennebec

Pending — Acceptance of Report

(In the House — Referred to Committee on Health and Institutional Services)

On motion by Mr. Speers of Kennebec, the Report of the Committee was Accepted and, under suspension of the rules, the Resolve Read Once.

Thereupon, under further suspension of the rules, the Resolve was Read a Second Time and Passed to be Engrossed in non-concurrence.

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

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

Bill, "An Act to Clarify the Fish and Game Laws." (H. P. 1933) (L. D. 2121)

Tabled — April 1, 1976 by Senator Speers of Kennebec

Pending — Adoption of House Amendment "C" (H-1164) to Committee Amendment "B" (H-1050)

(In the House — Majority Ought to Pass Report Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "B", as Amended by House Amendments "A" (H-1068), "B" (H-1163) "C" (H-1164), "D" (H-1172) and "E" (H-1175).

(In the Senate — House Amendment "A" to Committee Amendment "B", Indefinitely Postponed; House Amendment "B" to Committee Amendment "B", Adopted.)

On motion by Mr. McNally of Hancock, House Amendment "C" to Committee Amendment "B" was Adopted in concurrence.

House Amendment "D" to Committee Amendment "B" was Read.

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

Mr. GRAFFAM: Mr. President, House Amendment "D" is an amendment to lower the registration fee, and that would lower the revenue for Fisheries and Wildlife \$105,000. And not only that, Item 15 on the unassigned table is a study order for the snowmobile and watercraft registration programs. For that



reason, I move the indefinite postponement of House Amendment "D".

The PRESIDENT: The Senator from Cumberland, Senator Graffam, moves that House Amendment "D" to Committee Amendment "B" be indefinitely postponed.

The Chair recognizes the Senator from York, Senator Danton.

Mr. DANTON: Mr. President, I request a division on the Senator's motion.

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

Mr. PRAY: Mr. President and Members of the Senate: I want to correct one statement, first of all. This amendment does not decrease the registration fee. What it does is increase the registration fee by one dollar instead of \$2.50. The \$2.50 increase doesn't go into effect until July 1st, so I guess it is according to how you look at it.

The question of the \$105,000 as the difference of this fee, I have been going over the Performance Audit report that they sent out on the Fish and Game Department and I was quite surprised at the unused cash that they keep on hand. As of June 30, 1975, they had roughly 1.4 million, \$1,399,000 and a few other dollars kicking around there.

The reason this amendment has been presented is because last year when the Fish and Game Committee met and had several bills to raise non-resident hunting licenses and non-resident fishing licenses, the committee took it upon itself to increase all licenses across the board basically somewhere between 20 and 30 percent. I think everybody can remember that bill because the same thing happened to that bill as happened to this bill last year; it was recommitted to committee. Except this time when it was recommitted to committee it basically came out the same as it was the first time, with only one individual changing his position, and I am not going to try to second guess why he changed his position.

But when it came to the snowmobile registration fees, we basically took a 25 percent increase for the department. This was the purpose of the increases. But in our oversight we failed to realize that the department does not receive the entire amount of money that is charged those fees. The municipalities and Parks and Recreation receive a proportion of that too. So by increasing it by the \$2.50 what we did, in essence, was increase it by I think roughly 87 percent. If we were going to stick somewhere along in the 20 to 30 percent increase, then the dollar figure would be sufficient.

There were a number of individuals, and I guess I would say an outcry from the public, basically snowmobilers around the state. We had three or four hundred here at a hearing not too long ago when we were discussing the education bill, and that day we did not hold a committee hearing because I think the Senate was in session until well after 3 o'clock that day. But the individuals did show up and they did meet with the House members of the committee, and that is where this amendment came from; it was their concern that without a public hearing these fees had been increased that amount.

Now, I know there are a lot of arguments on how small the fee is and that it is not much and that they should be willing to pay, and all, but then I go back to the department and see their unused cash balance, which they say they have to have to continue the contingency fund in case emergencies happen and in case they have to close early on a season because of fire hazards or because of severe weather conditions, this table which is on the Performance Audit report, I notice it goes back to June 30, 1956, where at that time they considered half a million dollars sufficient, and now we are up to

1.4 million. That is a 180 percent increase in what they feel they have to have on hand.

There has been a lot of talk about the department. I was quite intrigued this morning, in reading through this report on how we compare it with New Hampshire. I was quite intrigued this morning to hear on the news that New Hampshire is going back into special session and one of their top priorities is to redesign their fish and game department because there seems to be some problems down there with the commissioner. Don't take that statement to mean that I am saying there is something wrong with the commissioner here, nor don't take it that I am not saying there isn't.

I think that this amendment, the \$105,000 difference that they talk about is not that much money. I have dealt with the department a number of times on different figures that they came out with. As a matter of fact, we did this last year on the budget when they told us that they needed a 1.3 million dollar increase. The committee came out with roughly a 1 million dollar increase and recommitted it back to committee, and then the department said they could live with a \$700,000 increase. I am wondering what happened to that other \$500,000 when they all of a sudden found out that they could live with that type of cut. I think this \$105,000 is the same type of cut that they can live with.

In that same report, on table 7, they list down here under warden service the cost of running their snowmobile program or enforcement of snowmobile laws at \$316,000. That reminds me of a bill which I had that never came before this body today when the Fish and Game Department has attached a \$106,000 appropriations note to that, very similar to what they have attached to the snowmobile one, of saying that they were going to have to rehire Don Mairs, who is on the Pesticide Control Board, at a cost of \$2,800. I was of the understanding that he was on the payroll anyway. And I am of the understanding that these wardens that they are going to have to pay \$316 are still on the payroll whether or not we have snowmobiles running through the woods or not. They seem to cover up a lot their costs quite well, and they seem to do quite well in their approach of receiving money when they definitely explain their needs for that money.

If the concern of the individuals of this Senate, and particularly the individual who made the motion to indefinitely postpone this bill, is a concern about the \$105,000, I am kind of curious as to why he killed a bill last year that would have given the department \$172,000. That was a bill sponsored jointly by the Senate majority leader, Senator Speers, and myself. If the concern was the revenue, and not the particular piece of legislation itself, they should have supported the moose bill, but I am not going to get into that.

I would like to ask for a roll call on that motion, and I hope the Senate prevails in defeating the motion.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Hancock, Senator McNally.

Mr. McNALLY: Mr. President, about the only thing I know about in the legislature and outside is what I read and what I hear at the different places that I am. I would like to read to you only two paragraphs out of "The Maine Snowmobiler" for March, which is by Editor and Publisher Edward J. Armstrong, and it says: "Prior to the convening of the legislature, I was contacted by the MSA president and asked to submit legislation to correct the inequities in the registration fees. I agreed to do this and had a bill drafted to introduce to the special session. This bill was refused by the legislative screening committee because it was not considered to

be of an emergency nature. I informed the president of the MSA of this action by letter and at that time explained to her some of the other options that I and several other legislators were to pursue in an attempt to correct the situation."

Now, last night after it was over, I went back to make sure that I had been told somewhere near what the department has for information to give, and I can only say to you that they say we are very much in need. If you are going to have a 6.4 percent increase in pay to the Maine state employees, since we have no money out of the general fund, we are very much in need of the \$106,000. And of course, if you had multiplied the \$2.50 times 70,737, you would see that that equals around a \$200,000 deal instead of what you have now with \$1.50 left off it.

Now, I also was a little bit concerned this morning when I read in the paper that it may not be even 6.4 or 9 or 8, or whatever it is to be, but that it might be 11 percent. Of course, if that is the case, that is worse still because every percent it goes up that you must pay out to employees, you can multiply that percentage by \$3,750, and that is that much more that will be needed in this department in order to fund any raises for their employees.

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

Mr. DANTON: Mr. President and Members of the Senate: I am a city boy and I am not too familiar with snowmobiles, but some of the people that I represent out in the rural districts do have snowmobiles. Just as a matter of information, Mr. President, I would like to ask you through the Chair are we now going to vote whether this amendment to reduce snowmobile fees is the motion to kill this bill? Is that what the motion is?

The PRESIDENT: The Chair would answer the Senator in the affirmative. The motion was made by the Senator from Cumberland, Senator Graffam.

Mr. DANTON: And a roll call has been requested?

The PRESIDENT: A roll call has been requested.

Mr. DANTON: Thank you, Mr. President.

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

Mr. TROTZKY: Mr. President, I would like to ask a question through the Chair to the Senator from Penobscot, Senator Pray. Is there any section in this amendment pertaining to moose?

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, has posed a question through the Chair to anyone who would care to answer.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Members of the Senate: I will reply in this way: not in the amendment but in the bill.

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

Mr. MERRILL: Mr. President and Members of the Senate: What we have here, of course, is a taxation bill of sorts and, because it is a dedicated fund, an appropriations bill of \$105,000. And I would like to ask any member of the committee or any non-elitist Senator who may care to answer how does this \$105,000 weigh in terms of other priorities that we have within state government?

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 Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: Well, of course, this would just be a

meat ax approach to the department budget. It is just cutting off \$105,000 willy-nilly.

While I am on my feet, in order to get ahead of the whole column of Senators that appear to want to talk on the issue, I would like to take advantage of the fact that I do have the floor for the moment. As Senator Graffam pointed out, we have an order on the table, item 15, which it certainly would be my fervent hope that the leadership would see fit to pass in the closing days of the session, providing for a review by a legislative joint committee of the snowmobile taxation problem and also of the license fee problem.

I would start by saying that the Maine State Fish and Game Association is very much opposed to the proposal of lowering the registration fee of snowmobiles by \$1.50. Their concern is that we are by doing this action going to hurt the Fish and Game Department activities, but also they have got a little longer range viewpoint than apparently some of the people who want to keep this amendment on the bill do, and that is the impact this is going to have in the future on what is going to happen to the cost of running snowmobiles.

It was brought out at the Performance Audit Committee, which was dealing with the subject of how to run the finances of the Fish and Game Department, that the snowmobilers took that opportunity to come in and try to do what is being done by this amendment. Probably they were legally correct, but certainly they were not interested too much in the department budget. They were interested in cutting their own registration fee. And it was very carefully pointed out to them by the members of the committee at the time that there appeared to be some serious inequities in the taxation, registration, and assessing of snowmobiles. One member of the committee brought out the point that the treatment of boats is not reflected in the treatment of snowmobiles. And it was brought out that you could have perhaps a snowmobile that might cost you \$2,000 or more on which you paid no personal property tax or excise tax of any kind, and that the only fee that the snowmobiler paid, should he have a machine worth second-hand \$100 or brand new in excess of \$2,000, was a \$12.50 fee. This is a matter and the reason I am strongly urging leadership that the whole matter be studied; there is something wrong here.

In the last part of the amendment which we are hoping to kill on our roll call vote is a unique situation, and I would call to the attention of anybody interested in automobile registration or boat registration, or any other fees you pay to the state, what the snowmobilers in addition are asking. This is in the amendment, the pending motion being to kill: "Whoever transfers the ownership or permanently discontinues the use of a registered snowmobile and applies for the registration of another snowmobile in the same registration year shall be entitled to a certificate of registration upon payment of a transfer fee of \$2, and shall not be required to pay the regular registration fee", which is presently \$12.50 and they are hoping to be \$11. Now, this doesn't happen in a boat, it doesn't happen in an automobile, and why should it happen in snowmobiles.

I would hope that we would kill the amendment, and I would hope that the snowmobilers will come to the next session of the legislature, and to the hearings which I hope again will be held on the study order, and present a calm, rational, studied approach to the problem of what it is going to cost to run snowmobiles in the State of Maine.

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

Mr. CARBONNEAU: Mr. President, I would like to pose a question to the Chair. What I

would like to know is are we voting to kill the bill or are we voting to kill the amendment? We have heard from different speakers that we are either postponing this bill indefinitely or the amendment, and I think it is the amendment but I would like to know for sure.

The PRESIDENT: The Chair would advise the Senator that the pending question before the Senate is the motion by the Senator from Cumberland, Senator Graffam, that the Senate indefinitely postpone House Amendment "D" to Committee Amendment "B".

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President, I would just like to clarify some of the statements by the good Senator from Cumberland, Senator Berry. As to the second part of this amendment which he referred to, if anybody is looking at it, all it does is change the \$12.50 that is already listed to \$11. It is not starting something new as far as the transfer fee of \$2. It is just a clarification of changing all the figures where the \$12.50 shows up to \$11. It is not implementing something new.

As far as the taxation issue of referring to the excise tax and the personal property tax, I would like to remind the good Senator that it was the previous legislature that removed the excise tax off snowmobiles.

The PRESIDENT: Is the Senate ready for the question? 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 please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question is the motion by the Senator from Cumberland, Senator Graffam, that the Senate indefinitely postpone House Amendment "D" to Committee Amendment "B". A "Yes" vote will be in favor of indefinite postponement; a "Nay" vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Berry, R.; Carbonneau, Collins, Cyr, Gahagan, Graffam, Graham, Katz, McNally, Reeves, Roberts, Speers, Trotzky.

NAYS: Senators Berry, E.; Cianchette, Clifford, Conley, Corson, Cummings, Curtis, Danton, Greeley, Hichens, Jackson, Marcotte, Merrill, O'Leary, Pray, Thomas, Wyman.

ABSENT: Senators Huber, Johnston.

A roll call was had. 13 Senators having voted in the affirmative, and 17 Senators having voted in the negative, with two Senators being absent, the motion did not prevail, and House Amendment "D" to Committee Amendment "B" was Adopted in concurrence.

House Amendment "E" to Committee Amendment "B" was Read.

On motion by Mr. McNally of Hancock, House Amendment "E" to Committee Amendment "B" was Adopted in concurrence.

The same Senator then moved that the Senate reconsider its former action whereby House Amendment "A" to Committee Amendment "B" was Indefinitely Postponed.

The PRESIDENT: The Senator has the floor.

Mr. McNALLY: Mr. President, this is an amendment that would restore the original salmon price of the stamp from \$5, which is on Committee Amendment "B", back to the \$1 that it now is, and the non-resident stamp from \$20, which is on Committee Amendment "B", back to \$15, as it is now.

When we raised the price of the licenses, we have a license price now of \$25.50 for non-residents, and when you take and add \$25.50 and \$20 more to it, then it doesn't look too good to non-resident people coming down to fish for salmon. Now, I don't know of any rivers that salmon are in up in the north country, and it

seems to me since we did raise the licenses as much as we did that it would be the proper thing to restore this salmon stamp back to what it is now in the law, and that is \$1 for the residents and \$15 for the non-residents.

There are a good many young people who are starting to fly fish and get interested in salmon fishing, and it would be a help to them, of course, and I think it would also help a lot on the poaching situation because if prices get too high there will be nobody receiving any money.

The PRESIDENT: Is it now the pleasure of the Senate to reconsider its action whereby it indefinitely postponed House Amendment "A" to Committee Amendment "B"?

The motion prevailed.

Thereupon, House Amendment "A" to Committee Amendment "B" was Adopted and Committee Amendment "B", as Amended by House Amendments "A", "B", "C", "D" and "E" Thereto, was Adopted in concurrence.

The PRESIDENT: Is it now the pleasure of the Senate that the rules be suspended in order to give this bill its second reading by title only at this time?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I would pose a question through the Chair to the Chairman of the Fish and Wildlife Committee. I would like to know if the pheasant stamp is still alive.

The PRESIDENT: The Senator from Cumberland Senator Conley has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the Senator from Hancock, Senator McNally.

Mr. McNALLY: Mr. President, with all these that you see it, it is. It originally ran out and it has been replaced here in the law again.

The PRESIDENT: Is it now the pleasure of the Senate that the rules be suspended in order to give this bill its second reading by title only at this time?

Thereupon, under suspension of the rules, the Bill was Read a Second Time.

The PRESIDENT: Is it now the pleasure of the Senate that this bill be passed to be engrossed and sent down for concurrence?

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I think this is a unique moment, and in supporting this motion, Mr. President, I think that the Senate can be very sorry to see this very exciting bill removed from its consideration at this moment.

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

Mr. HICHENS of York then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-510, was Read.

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

Mr. PRAY: Mr. President and Members of the Senate: Just to clarify one thing about this amendment, I think the good Senator from York, Senator Hichens, isn't quite sure of what the statute says. He asked me about this at an earlier date, about including this, and I asked the commissioner about it, and cats are already included in the bill under domestic animals. So I see no need for this amendment and I move the indefinite postponement of it.

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

Mr. HICHENS: Mr. President, the Senator from Penobscot is entirely correct that I did approach him on it, but the good lady from the animal welfare division contacted the Attorney General and he said there was no distinct clarification as to whether a cat was a domestic

animal or not, and it was suggested that it be included just for their protection.

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

Mr. McNALLY: I would like to inquire through the Chair of the good Senator Hichens as to whether bobcats are included in this list.

The PRESIDENT: The Senator from Hancock, Senator McNally, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President, I think it is very clearly defined that a bobcat is not a domestic animal.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from Penobscot, Senator Pray, that Senate Amendment "A" to L. D. 2121 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. All those opposed will rise in their places until counted.

A division was had. Six having voted in the affirmative, and 22 having voted in the negative, the motion did not prevail.

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

Mr. COLLINS: Mr. President, since we are on the topic of domestic animals, I have one question for any Senator who may care to answer. In the regular session we passed Chapter 306, which said that no one could kill a domestic animal, and some of my constituents who are farmers, and have for years slaughtered their own veal calves and other livestock for domestic personal use wanted to know if that meant they could no longer do so. I read the statute and I would have to say that it reads that they could no longer do so, but I would appreciate any enlightenment from either Fish and Game or Agricultural sources about the real intent in that Chapter 306.

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

Mr. HICHENS: Mr. President and Members of the Senate: For the good Senator from Knox, Senator Collins, I would read the section that we are referring to. It says, "Whoever while on a hunting trip or in the pursuit of wild animals or game birds or migratory game birds negligently or carelessly or wilfully shoots and wounds or kills any domestic animals, including dogs" — and now with this amendment passed, cats — "or domestic birds shall be punished by a fine", and so forth.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "A" to L. D. 2121?

The motion prevailed.

Mr. Corson of Somerset presented Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-512, was Read.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "B" to L. D. 2121?

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I would ask a question through the Chair as to the import of this amendment.

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

The Chair recognizes the Senator from Somerset, Senator Corson.

Mr. CORSON: Mr. President, in view of the vote yesterday regarding mandatory sentencing for class "A", "B" and "C" crimes committed with firearms, and mandatory sentences for persons convicted of burglary, I felt that it

was certainly the will of this body that we should remove mandatory sentences of night hunting. Therefore, I have introduced this amendment which would in fact do just that.

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

The motion prevailed.

Mr. Jackson of Cumberland presented Senate Amendment "C" and moved its Adoption.

Senate Amendment "C", Filing No. S-513,

was Read and Adopted and the Bill Passed to be Engrossed, as Amended, in non-concurrence.

Thereupon, under suspension of the rules, sent down forthwith for concurrence.

#### (Off Record Remarks)

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

Bill, "An Act to Clarify the Retirement Statutes." (H. P. 1860) (L. D. 2027) (Emergency)

Tabled — April 1, 1976 by Senator Speers of Kennebec

Pending — Adoption of House Amendment "B" (H-1133)

(In the House — Majority Ought to Pass Report Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-1105), as Amended by House Amendment "B" Thereto.

On motion by Mr. Collins of Knox, retabled until later in today's session, pending Adoption of House Amendment "B".

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

Bill, "An Act to Establish Uniform Standards for the Measurement of Wood." (H. P. 2277) (Emergency)

Tabled — April 1, 1976 by Senator Speers of Kennebec

Pending — Reference (In the House — Referred to Committee on Agriculture and ordered Printed)

On motion by Mr. Hichens of York, the Bill was Indefinitely Postponed in non-concurrence.

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

Communications  
State of Maine  
Office of the Governor  
Augusta, Maine  
04330

April 2, 1976

To Members Of The House Of Representatives And Senate Of the 107th Legislature:

I am today returning without my signature and approval S.P. 640, L. D. 2029, "An Act Relating to Teacher Employment."

This Legislature passed an income tax increase in part at least to allow greater opportunity for local control of the property tax. However, if this bill were to become law, local control over educational policy and programs would be reduced. I do not believe such action serves the best interests of all Maine citizens, especially during a period when the public is demanding return of decision making, as much as possible, to the local level.

Furthermore, if it became law, elected school committees, which are in a position to be responsive and answerable to parents, as well as students and citizens of their community, would lose much of the statutory authority which they need to enable them to fulfill their obligations. Their power to ensure that the fundamental educational policies which they are elected to effect would be severely diminished.

Perhaps most significant of all is that the courts are now considering whether present law assures adequate due process for teachers whose contracts have not been renewed. Also, the negotiability of "just cause" protection is

now being reviewed by the Supreme Judicial Court following a Superior Court decision in Winslow which held that an arbitration panel exceeded its authority by inserting "just cause" language into the teacher contract over the objection of the school committee. With these two areas of controversy now before the courts, it seems inappropriate to try to further restrict the authority of local school officials by legislatively restricting their authority to deal with the very matters of employment relations for which they are held responsible under current law.

For these reasons, I respectfully veto this bill, and hope that after full consideration of the reasons mentioned above, members of your Honorable Bodies will agree that this action is in the best interests of all Maine citizens at this time. Hopefully, the Legislature will sustain this veto in order that cooperatively the Legislative and Executive Branches will strive to lighten the budgetary mandates on the cities and towns of Maine and allow them the same freedom toward cost effective government as we have mutually committed to try to do on the state level.

Very truly yours,  
JAMES B. LONGLEY  
Governor  
(S. P. 793)

Which was Read and Ordered Placed on File.

Mr. Speers of Kennebec moved that the matter be tabled until later in today's session, pending Consideration.

On motion by Mr. Trotzky of Penobscot, a division was had. 15 having voted in the affirmative, and 10 having voted in the negative, the motion prevailed.

State of Maine  
One Hundred and Seventh Legislature  
Committee on Public Utilities  
April 1, 1976

Honorable Joseph Sewall  
President of the Senate  
State House  
Augusta, Maine 04330  
Dear Sir:

It is with pleasure that I report to you that the Committee on Public Utilities has completed all action necessary on the business placed before it by the Special Session of the 107th Legislature.

Total Number of Bills Presented	19
Unanimous Reports	16
Ought to Pass	4
Ought to Pass as Amended	7
Leave to Withdraw	5
Divided Reports	3
Total Number of New Drafts	1

Sincerely yours,

Signed: MINNETTE H. CUMMINGS  
Senate Chairman

Which was Read and Ordered Placed on File.

#### Committee Reports Senate

##### Committee of Conference Report

The Committee of Conference of the disagreeing action of the two branches of the Legislature on, Bill, "An Act to Regulate Drinking Water." (S. P. 687) (L. D. 2198)

ask leave to report: that the House recede from its action whereby it Indefinitely Postponed the Bill and accompanying papers and concur with the Senate and Pass the Bill to be Engrossed, as Amended by Committee Amendment "A" (S-431).

On the part of the Senate:  
CUMMINGS of Penobscot  
CYR of Aroostook  
GREELEY of Waldo

On the part of the House:  
LEONARD of Woolwich  
CAREY of Waterville



GARSOE of Cumberland

Which report was Read.

The PRESIDENT: Is it the pleasure of the Senate that the committee of conference report be accepted?

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President, this matter received quite a lot of debate and I think the Senate should be fully informed on the results of the action of the conference committee. I have some very serious reservations on the bill itself and I notice that the solution of the conference committee was to adopt Senate Amendment S-431. I find that Senate Amendment S-431 provides that no regulations or guidelines shall be finally adopted or promulgated under this section until they have been reported to and approved by the legislature. Now, I think this is a very serious and significant step that we are being asked to take and I think it is very important that the Senate be fully informed and fully cognizant of the impact of this decision.

I think the Senate may recall that in previous debate objection was taken to turning the legislature into a fully administrative body, that the current practice in rules and regulations is to assign guidelines for departments, have hearings held for the promulgation of rules and regulations, and then their adoption subsequently, with ample recourse to the court system. I think if the legislature is going to be asked to do things of this nature that we are going to turn ourselves into nothing but either rubber stamps or get lost in minutiae. I would appreciate a reasonably full report on the conference committee action.

The PRESIDENT: The Senator from Cumberland, Senator Berry, has posed a question through the Chair.

The Chair recognizes the Senator from Cumberland, Senator Cummings.

Mrs. CUMMINGS: Mr. President and Members of the Senate: We had our conference committee this morning and Mr. Hoxie from Health and Welfare had asked to be there because of his expertise. The members from the other body insisted that the bill would not be acceptable to them without this amendment, which was put on in committee as being an important part of this Safe Drinking Water Act.

Actually I don't think it is going to turn out to be that the legislature would be a rubber stamp. These recommendations, the rules and regulations that would be promulgated by that department before this would go into effect would come before the committee, just the way things do now. That committee then I think would make their report to the legislature, and we would have a chance as a citizen body to listen to various and sundry reactions to the rules as they are put forth by that department.

I think this is a healthy move. I think it gives a chance for the citizens of the State of Maine to look over the rules, and it gives the legislature a much better chance to get the reaction of those who are going to be affected by these rules. As it is now, some of these things are put into effect often after we have departed, as we have mentioned before, and there is no chance for the citizens to give the legislature their reaction to how these rules are going to affect them.

I don't think this is a dangerous move. I think it is a good move. It is one that the good Senator from Aroostook, Senator Cyr, has worked hard and long to find in many of the other bills that we have discussed, and I think the committee as a whole fully agreed that this was a good step in the right direction, and I would like to see it passed as is.

The PRESIDENT: Is the Senate ready for the question? The pending question, before the Senate is the acceptance of the committee of conference report relative to L. D. 2198.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, in reading Committee Amendment "A", S-431, I note that no regulations or guidelines shall be finally adopted or promulgated under this section until they have been reported to and approved by the legislature, period. I am wondering if any member who has worked on this amendment might be able to enlighten this body as to how they are to be approved by the legislature as to what committees, as to what happens whether or not the committees do approve them, whether this is even a constitutional problem.

Now, we have discussed this problem a number of times here in this body and no one has seriously addressed the problems that arise with this kind of language. I am wondering if someone could express to me or to this body how these are to be approved by the legislature, what committee, and to whether or not it is even constitutional.

The PRESIDENT: The Senator from Kennebec, Senator Speers, poses a question through the Chair. The Chair recognizes the Senator from Penobscot, Senator Cummings.

Mrs. CUMMINGS: Mr. President and Members of the Senate: As to its constitutionality, I don't know. I find that the Senator from Kennebec, Senator Speers, is correct; it is not written in here as to the exact steps that will be taken. It was understood by the committee that this would be put in the form of a bill and, therefore, of course, be referred to the committee which would be most knowledgeable to act on it, so that their rules and regulations would be presented in the form of a bill. I agree, I do not see that that is written in here or spelled out.

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

Mr. BERRY: Mr. President and Members of the Senate: I want to thank the Senator from Kennebec, Senator Speers, because I sat back in resignation after the Senator from Penobscot, Senator Cummings, got up and gave her explanation and said to myself, well, if this is what we want, we are going to pass it, and the cold shower from Senator Speers woke me up a little bit.

He is 100 percent right, and we get right back to what I said. The rules and regulations are the working details, the guidelines, the minutiae which are necessary to implement and put into practical, working understanding language the laws that we are passing. Now, what would be coming back to the legislature for approval would be how many parts per million of chlorine would be found at what distance from the source of input, the length of residual necessary in terms of time and parts per million, all sorts of things like that, totally beyond the ability of the legislature to handle.

As to Senator Cummings comment that this gives the public the input, the public has plenty of input, and the place for the input is before the public hearing held by the department to establish these rules and regulations.

Now, we have uniform methods for putting rules and regulations in effect and, needless to say, previous sessions of the legislature were not totally inept in their ability to put on the books practical legislation of this nature. And they provided that the public can appear after the rules and regulations have been published, have their input, and then within 30 days the department head of the party holding the hearing will come out. And as I said, if any body is aggrieved, the present system quite properly proposes recourse.

I firmly believe that this amendment — not going back to the bill itself necessarily, but the amendment is definitely an impractical matter. And I do not address my comments at all to the unconstitutionality. I think frankly, to answer Senator Speers' question, on the face of it, it is obviously unconstitutional. The legislature is injecting itself into the executive department and

saying we not only give you broad guidelines as to what to do, but we are now telling you how to do it. I think this is a very fine differentiation.

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

Mr. MERRILL: Mr. President and Members of the Senate: I think, as far as the constitutionality of this approach, obviously I don't think we are going to settle it here today, and I don't wish to get into a long constitutional debate with a constitutional authority of the repute of the Senator from Cumberland, Senator Berry. But you know, there used to be a whole series of cases when it first became the practice for legislatures, and for the congress as the legislature of the nation, when it first became the practice to delegate to the executive branch the power to pass these regulations which are the final part of implementing the law, a whole series of cases which dealt with the question of whether or not the legislature could delegate that much authority, and the cases at first went both ways.

Now, unless we have done a 180-degree reversal since that time, it is my recollection that those cases would support the proposition that in the legislature insisting on some oversight in the regulating and the writing of the regulations is just a continuation of its legislative function. It is one more restriction that it puts on the power to write the regulations. And I am sure that the Senator from Cumberland, Senator Berry, and all the other constitutional experts here know that we have to set guidelines in giving these parts of the executive branch the power to write any regulations, and this is in essence just another one of those guidelines.

So I don't see the great constitutional problems and clouds that are hinted at. This is an approach that the national legislature is beginning to follow more and more, and other legislatures around the United States. I think it is a good approach, and I think it is an approach that when applied properly and applied in the right instances can help assure that the people's will as worked through the legislature is enacted, and that we don't have the situation that the Senator from York, Senator Danton, so colorfully summed up the other day when he referred to the bureaucrats looking out the window and smiling and waving goodby when we left. That was a very colorful way, I think, to point out a frustration that is felt by many legislators, and I would just support the action suggested here by the assistant majority leader and think that the lack of specification as to the method of legislative approval may in fact be an asset that Senator Speers may want to consider because, as he has told us before, there is going to be a big study of this whole situation to find the best way for the legislature to do this. The fact that this bill doesn't specify exactly, I would suggest, gives the opportunity for this, when it comes back in the 108th, to be handled in the way considered to be most appropriate by that study.

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

Mr. SPEERS: Mr. President, I certainly find much in what the good Senator from Cumberland, Senator Merrill, has to say with which I can agree. I think it is an important concept that this legislature have the power to review rules and regulations promulgated by the various departments and agencies to determine that they are in fact following the intent of the legislature, and I would like to take this opportunity just to give a brief example that was discussed in discussions in the national conference of the Legislative Improvement and Modernization Committee when it discussed this particular item.

That is that in the State of Maryland there was a bill before the legislature that would require the posting of gasoline prices on all gasoline

pumps. Now, that bill was defeated and defeated soundly in the Maryland general assembly. One month after they adjourned, a rule and regulation was promulgated by one of their departments which required the posting of gasoline prices on all gasoline pumps. Now, that is a very latent example of the need for legislative review of rules and regulations being promulgated by agencies and departments of the various state governments.

The good Senator is quite correct when he mentions that this is an item that is becoming more and more looked at and as a tool for state legislatures, and I believe that over the next few years we are going to have legislatures across the nation adopting what in fact will be legislative review of rules and regulations. And I certainly do hope that the national congress will look into this matter and move in this direction as well. It certainly needs it.

I disagree, however, with the good Senator and with the approach that is being taken in this amendment, and in one or two other amendments that we have seen proposed to this body, that we can simply come in and write a one-sentence bill and expect that that is going to take care of the problem. I suspect it is going to create far more problems than will be the case if we do this and do it properly. The good Senator from Cumberland, Senator Merrill, suggested that when applied properly this can be a very great advantage for legislatures, and I agree with him, but the criterion is that it be applied properly.

There are constitutional questions involved, very serious ones, and I feel that that is one of the issues that has to be addressed by the State Government Committee when it undertakes this study during this interim, and it must address that problem as well as the overall problem of the procedures to be followed in presenting proposed rules and regulations to the legislature for approval or disapproval. And there are numerous other questions to be resolved. I feel very strongly that to approach this matter piecemeal by one agency or another, department or whatever, and letting all the other agencies and departments forget about it is the wrong approach.

I sincerely hope that this body will reject this particular amendment and will allow the State Government Committee to continue in its efforts at bringing forth an administrative procedures act, which it will be presenting to the next session of the legislature, and also to be bringing forth a bill to provide for overall review of rules and regulations being promulgated. It is a very important issue and I think because of its importance that it ought to be done correctly.

Mr. President, I don't address myself to the other items in this particular committee amendment; there may be reasons for adopting this bill and the other items in the committee amendment, and what I would urgently hope that this body will do is to reject the motion to accept the conference report and subsequently reject the committee of conference report and ask for a second committee of conference.

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

Mr. CYR: Mr. President and Members of the Senate: The matter which is under discussion right now, we have heard time and time again that we give the authority to departments to promulgate rules and regulations, and usually the sentence goes something like this: to carry out the intent of the legislature. Now, actually what we are doing is just passing on our duties, our responsibilities, of writing laws, when in actuality what we want to do is just ask them to write rules and regulations, and this is exactly what we have done in this amendment. We have asked the departments to promulgate these rules and regulations, but then to have to come back to the legislature for approval of these. In other words, we are giving them the right and

the responsibility which belongs to us as legislators.

Now, the good Senator from Cumberland, Senator Berry, mentioned, for instance, that there is plenty of chances for the public to be heard in regard to these rules and regulations which are being written before they do become law or after they are promulgated. I would like to tell you about a meeting that I attended about a month ago at the Civic Center which was on the eutrophication of lakes. That is a lake which is dying from the algae growth. At that meeting there were exactly thirteen people. Six of this group were members of DEP. Now, what kind of public input was put into this program? When this program does come into law in the State of Maine, this was to find out what would be the type of tests to find out if a lake was becoming eutrophied, and what kind of input was put into this? The discussion was so technical that after an hour of it I walked out of it, I had my belly full. You had some of these young college graduates that appeared and testified before the committee on this, and they were rattling it off and it sounded very good, and everything else, but after their presentation the committee started asking them questions and they would say, well, this a pretty complex and complicated subject matter and therefore we are not sure whether we have the right answer, and this and that, and yet they were writing rules and regulations. So that is the type of situation that you have.

Now, coming back to this bill right here and that amendment, the Clean Water Act has been before us all summer. We had, as I recall, at least four hearings on this. We had input from the water association, we had input from the departments, we had input from the EPA, and actually what we came out with was the suggestion of all of these people. On the federal Clean Water Act, the deadline has been delayed from December 31, 1976 to June of 1977, so it gives us time to accept a bill and accept the primacy of the state.

However, if we defeat this bill for any little silly arguments that somebody might have in regards to it — if they do want some changes, all they have to do is at the next session appear at the hearings and suggest the changes that they want — if not, we are going to find ourselves with the federal act going into force in June of '77 without any legislation on the part of the State of Maine. And if this is so, if we haven't accepted the primacy — which is all that this bill does, accept the primacy and the rules and regulations are going to be written by the department and accepted by the next legislature — if not, we are going to find ourselves in the position where we are going to be under the EPA office in Boston. If you like it that way, O.K. I don't think that anyone in the State of Maine, no water utility, feels correct about it, but that is the situation that you have. So if you defeat this bill, that is exactly what you are going to have.

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

Mr. BERRY: Mr. President and Members of the Senate: I am sure it is not the intent of anybody debating either side of this question today to insinuate that we should defeat the entire bill. The Senate has once defeated Senate Amendment 431, and I think that is really what we are talking about because that is the recommendation of the committee of conference, and I would strongly urge that we support Senator Speers' amendment.

I am just going to say one final argument for the position that the review by the legislature is impractical, and that is the lack of flexibility, the lack of ability of the legislature to respond promptly and quickly and timely to emergency situations, matters like health of drinking water or the red tide situation, which is only a parallel

and wouldn't be under this. But departments and rules and regulations exist for the purpose of promptly reacting to situations that the legislature cannot conceivably react to, one reason being that it might not even be in session. So I think we should try again to come up with a better solution to the problem than merely the adoption of 431, which we killed after a similar debate some time ago.

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

Mr. SPEERS: Mr. President, I certainly concur with the good Senator from Cumberland, Senator Berry. My intent is certainly not to kill this bill and, if there is no pending motion at the present time, I would make a motion to reject the conference report and ask for a second committee of conference.

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

Mr. COLLINS: Mr. President, I concur with the previous speakers that it is a very important matter that this bill be enacted at this session. Those who are responsible for drinking water in my part of the state have urged me to support this bill because they feel that regulations from the state level is much to be preferred over that coming from the federal level.

The good Senator from Kennebec, Senator Speers, has expressed some concern about constitutionality. I do not claim to be an authority in that field but my review of this problem in this case does not lead me to have any apprehension about constitutionality and, if that is his only concern, I feel that we ought not to hang our hat on that.

There may be better ways to work out these regulations, I certainly could agree with that, but I would hate very much to see this bill lost for reasons of technical discussion between the branches.

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

Mr. CURTIS: Mr. President, I support the pending motion to request a second committee of conference. My concern is not so much the question of constitutionality as it is of precedent. On page 6 of the Senate calendar today is reference to that tabled unassigned joint order which might be assigned to the State Government Committee to review this question of administrative rules and regulations of state departments and agencies. Now, that order was introduced on February 20th in the Senate by the Senator from Kennebec, Senator Speers, and I would like at this time to commend Senator Speers for his foresight and his concern in this entire area that the legislature establish some sensible regulations to review rules and regulations which are being made by state departments.

The order includes the direction to the State Government Committee that the Joint Standing Committee on State Government shall complete this study no later than November 30, 1976 and shall submit to the Director of Legislative Research on November 30, 1976 a complete and final copy of any proposed legislation recommended by that study. That is part of the order. I view that, as the Chairman of the State Government Committee, as being a rather significant task that may be assigned to the State Government Committee, and it is with some trepidation that I anticipate the work that is going to be involved.

I think it would be very bad precedent if we in the legislature during this special session were to adopt the Senate amendment that is recommended by the conference committee, because without establishing or really careful consideration of the procedures which would be followed by the legislature in reviewing administrative rules and regulations before adoption, this legislation would go on the books. I think that a lot of work needs to be done. I am concerned that the

State Government Committee may not be able to come up with a careful analysis and good recommendation as soon as November 30th, but we will certainly give it a good try. At any rate, I think that it ought to be given a lot more careful study than is suggested in the conference committee report.

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

Mr. SPEERS: Mr. President, I apologize to the Senate for extending this debate, but I do feel it is a very important item and very important issue. I can assure the Senator from Knox, Senator Collins, that the constitutionality of this question is not my only concern with regard to it, but I do point that out as being a very legitimate concern on the part of many people who have been involved in this question in other areas of the country as to the constitutionality of the legislature retaining to itself this power. My own feeling with regard to it is that the legislature probably can do that, but I do point it out as a problem.

The more important concern that I have with the amendment as it is written is that it just drops the responsibility with no procedures provided whatever for the legislature to follow, no committee suggested, and no way in which the amendments or the proposed regulations are to be presented to the legislature and the legislature to act on these amendments.

Now, we have had several attempts made in this legislature to do precisely what this amendment does in other areas. There was an amendment proposed in the area of education. This amendment is proposed in the area, I presume, of the Public Utilities Commission perhaps, or perhaps it is the Department of Business Regulation. There are other areas of state government, of course, the DEP, Conservation, Human Services, whereby the same argument could be made and should be made that the legislature ought to have some power of review. The point that I am making, Mr. President, is that we should not do this piecemeal; that we should have the State Government Committee present to us a bill providing the procedures, providing the committees, answering the questions that have been raised on this issue, so that all of state government may be involved in this, and not just pick one department here or one agency there and end up five or ten years from now with an awfully complicated set of statutes that really do not accomplish what we hope they will accomplish.

Now, as to losing the entire bill, I sincerely hope and believe that the rejection of this particular report, sending it back to a second committee of conference — they could be the same individuals on that committee of conference — to take out the objectionable part of this amendment and present the bill with the rest of the amendment, if that is the desire of that conference, can be accomplished very simply and very quickly, and it certainly would not jeopardize the entire bill. I certainly hope the prevailing motion does prevail.

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

Mrs. CUMMINGS: Mr. President, of course the committee of conference will act as they are directed, but I think that the strongest point we had in prevailing upon the members appointed from the other body was that this would remain in. I do believe that it would jeopardize the bill, but actually we will try again if we have to.

The PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Greeley.

Thereupon, on motion by Mr. Greeley of Waldo, tabled until later in today's session; pending the motion by Mr. Speers of Kennebec that the Senate Reject the Conference Committee Report and Ask for a Second Committee of Conference.

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

Bill, "An Act to Review and Clarify the Freedom of Access Law." (H. P. 2226) (L. D. 2316)

Pending — Consideration

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

Mr. KATZ: Mr. President, an amendment is being prepared, and if we are here for another fifteen or twenty minutes, it is conceivable that the amendment would be ready. I request that it still be retabled until later in today's session.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that Item 1-1 be retabled until later in today's session. Is this the pleasure of the Senate?

The motion prevailed.

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

Bill, "An Act to Clarify the Retirement Statutes." (H. P. 1860) (L. D. 2027) (Emergency)

Pending — Adoption of House Amendment "B" (H-1133)

On motion by Mr. Collins of Knox, House Amendment "B" was Indefinitely Postponed.

Mr. Conley of Cumberland then moved that the Senate reconsider its action whereby House Amendment "B" was Indefinitely Postponed.

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

Mr. COLLINS: Mr. President, my intention, if House Amendment "B" remains indefinitely postponed, is to offer Senate Amendment "A" to Committee Amendment "A". I would like to explain to the Senate the issue involved here.

The Senate will recall that in the regular session we passed an extensive reform bill to the state retirement system. Between the sessions a careful review was made of that legislation and, as is often the case, there were a few errors located and oversights discovered. A bill was presented therefore to this session to clarify the retirement statutes in these respects. Some features of that bill are entirely without controversy, but the one area that caused some concern was with respect to the rules that determine the obtaining of credit for retirement with respect to accumulated sick leave on the part of teachers.

We discovered in our investigation that teacher contracts as time goes on are increasing the amount of sick leave which may be accumulated. In some cases the contracts now provide that the accumulation may be unlimited. We obtained a tally and we found that approximately 80 percent allowed 120 days or less accumulation of sick leave, but we noted a continuing trend to increase in the bargaining process the amount of time which could be accumulated. So we took a look to see what that was costing the system, and we were surprised to learn that it is costing the system an increasingly significant amount because this is a retirement benefit, you see, which is not being paid for, and this is the sort of thing that drains the retirement fund and hurts its actuarial integrity.

We did not wish to deny the possibility of this credit to the teachers, so we introduced a ceiling of 120 — it was debated as to whether it would be 120 or 90 days as a ceiling — and provided that beyond that amount of time the credits would still be available but that they must be paid for. And the committee version took the position that how they were paid for in the case of teachers would be up to the collective bargaining process. In the teacher contracts, the teachers would have to work that out with their employers, the school districts,

towns or cities. So this is the controversial part of this clarification bill.

The amendment that I will offer will restore to the bill the committee's view, and will further correct certain errors insofar as the committee did not intend that this bill apply to the municipal districts.

There is also in the proposed amendment that I will offer one other correction in which the good Senator from Cumberland, Senator Conley, will be interested because it repairs an accidental omission with respect to municipal districts such as are found in his city.

So I submit to you that this is the issue. The action of the other body takes one view, and the committee view is what I have just been explaining. The issue is: shall the credits that are to be allowed from sick leave in excess of this ceiling amount to be paid for, or shall they be granted without pay and thus become a drain on the fund, which can only be repaired and restored by appropriation from this legislature. I therefore ask that you vote against the motion of the good Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, it would be disadvantageous for me to try to debate the good Senator from Knox, Senator Collins, on this particular amendment. Therefore, I would ask leave to withdraw my motion.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now requests leave of the Senate to withdraw his motion to reconsider its former action. Is it the pleasure of the Senate to grant this leave?

It is a vote.

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

Senate Amendment "A", Filing No. S-511, to Committee Amendment "A" was Read.

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

Mr. COLLINS: Mr. President, there is one other feature in this bill I feel I should call to your attention. I do not believe it is controversial. It serves to move forward the effective date of certain portions of the retirement law as to law enforcement officers. This provision was inserted in the bill because of a request originating with the Department of Fisheries and Wildlife and concurred in by the enforcement leaders in the Department of Marine Resources and the State Police. The effect is to move up the new provisions of the retirement system to July 1, 1976 and it is, I think, the hope of some of the leaders of those enforcement groups that this may permit the retirement of some of their older veterans in the departments.

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

The motion prevailed.

Thereupon, 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 matter tabled earlier in today's session by Mr. Merrill of Cumberland:

Bill, "An Act to Provide for a Line Budget Procedure for All School Systems." (H. P. 2208) (L. D. 2308)

Pending — First Reading

Whereupon, the Bill was given its First Reading. Committee Amendment "B" was Read. House Amendment "A" to Committee Amendment "B" was Read.

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

Mr. MERRILL: Mr. President and Members of the Senate: My question was answered and it



may be of interest to some of the other members of the Senate, so I will just point it out. The items will appear on the warrants separately, if that is what the town decides to do. If the town follows the usual or what has been in my tradition the usual procedure of putting in a specified amount for each line item, than it would be impossible for the voters of the town to increase that amount. If they follow the other procedure which is available to them, and just put to see what sum the town shall appropriate, or whatever the body is, shall appropriate for the purpose of, whatever that particular line is, then they could appropriate obviously any amount. And of course that could be, as it often is, followed by a recommendation.

My only concern in regards to that then is that if the real goal of this bill is to increase the ability of local decision makers to have an effect, it could be defeated, at least to the extent that the townspeople wanted to spend more on a particular item by putting in a specified amount. But that is the sort of change I think that can come along after we have had this for a while, if it proves to be a frustration for local decision makers, so I won't attempt to amend the bill at this time.

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

House Amendment "A" to Committee Amendment "A" was Adopted in concurrence and Committee Amendment "B", as Amended by House Amendment "A" Thereto, was Adopted in concurrence.

Thereupon, under suspension of the rules, the Bill, as Amended, was Read a Second Time and Passed to be Engrossed in concurrence.

Under further suspension of the rules, sent forthwith to the Engrossing Department.

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

An Act Relating to Teacher Employment. (S. P. 640) (L. D. 2049)

Pending — Consideration

The President stated the question before the Senate: Shall this Bill become a law notwithstanding the objections of the Governor? According to the Constitution, the vote will be taken by the Yeas and Nays. A vote of Yes will be in favor of the Bill; a vote of No will be in favor of sustaining the veto of the Governor.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President and Members of the Senate: If you will refer to this Item 2-1, which is the veto message of the Governor, I respectfully suggest that the reasoning is not exactly on target. For example, in the second paragraph the veto message says, "local control over educational policy and programs would be reduced." And I can tell you that it was the thinking of the committee that the opposite was true, that if local people are bound by a mandatory statute, which would be the case if the Governor's veto is maintained, the right of local people to negotiate in good faith with their employees would be stripped away from them.

In the third paragraph, he suggests what elected school committees, which are in a position to be responsive and so forth, would lose much of the statutory authority which they need to enable them to fulfill their obligations, and I suggest that this also misses the mark. The statute remains unchanged. What we are giving to local school committees is an alternative course of action, if they wish to adopt the alternative course of action. And literally and as honestly as I can say, we are increasing local alternatives for local school people by the pas-

sage of this legislation, and I ask that the Senate reaffirm its original posture and vote that this bill shall become law notwithstanding the veto of the Governor.

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

Mr. TROTZKY: Mr. President and Members of the Senate: My school board doesn't agree with the statements made by the good Senator from Kennebec, Senator Katz. Right now a superintendent can recommend dismissal of a teacher for reasons of incompetence, the school board can hold a hearing and dismiss that teacher. Under the present law, if the teacher feels aggrieved by that decision, he has recourse to the courts to prove that he was dismissed without just cause.

What this bill does is allow teacher organizations to negotiate third party dismissal proceedings. In the Governor's message, it states that a superior court decision in Winslow held that an arbitration panel exceeded its authority by inserting "just cause" language into a teacher contract over the objection of the school committee. And what my school board is afraid of is that this will take place also in Bangor; that under arbitration they will give the teachers third party rights for dismissals.

So I tend to feel that the present process that we have is just. Your school board and my school board hired these teachers, and I feel for reasons of incompetence they should be able to dismiss teachers.

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

Mr. SPEERS: Mr. President, very briefly, I understand that there has been an amount of confusion amongst some school board members with regard to this bill. And I would point out that the bill is not in its original posture as it was introduced into this body. The bill has been amended by the Committee on Education, and I think those that do understand the bill as it has been amended and presented to us find it agreeable. Very basically, it is a question of collective bargaining, and the question is whether or not the teachers, when they negotiate a contract, are going to be able to collectively bargain for the conditions of dismissal. It removes the tenure law from the statutes, and this has been a very real problem for both sides of the bargaining table in the past and, as the good Senator suggested, there have been court cases that have been involved in this regard and I understand that the court has decided the issue before it just yesterday, so I think that the Governor's comments that this is before the courts at the present time are now outdated.

I would urgently request the Senate to override this veto. It is a good bill and, as has been mentioned at the time that the bill was discussed earlier, it is a question of collective bargaining.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is shall this bill become a law notwithstanding the objections of the Governor? A vote of Yes will be in favor of the bill; a vote of No will be in favor of sustaining the veto of the Governor.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Berry, E. Clifford, Collins, Conley, Corson, Curtis, Cyr, Danton, Gahagan, Graham, Jackson, Katz, Marcotte, Merrill, Pray, Roberts, Speers, Thomas.

NAYS: Senators Berry, R., Carbonneau, Cummings, Graffam, Greeley, Hichens, Huber, McNally, O'Leary, Trotzky, Wyman.

ABSENT: Senators Cianchette, Johnston, Reeves.

A roll call was had. 18 Senators having voted in the affirmative, and 11 Senators having voted in the negative, with three Senators being absent, and 18 being less than two-thirds of the

membership present, the veto of the Governor was sustained.

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

Mr. TROTZKY: Mr. President, I move the Senate reconsider its action whereby the Senate sustained the veto of the Governor and hope you vote against my motion.

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

Mr. SPEERS: Mr. President, I concur with the good Senator from Penobscot in making the motion to reconsider and I urge the Senate to vote in favor of the motion.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, now moves the Senate reconsider its action whereby the veto of the Governor was sustained. All those Senators in favor of reconsideration will please say "Yes"; those opposed will say "No".

A viva voce vote being in doubt, the Chair ordered a division.

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

Mr. BERRY: Mr. President, I 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 please rise in their places until counted.

Obviously less than one-fifth having arisen, a roll call is not ordered.

Whereupon, a division was had. 16 having voted in the affirmative, and 13 having voted in the negative, the motion prevailed.

Thereupon, on motion by Mr. Speers of Kennebec, tabled and Tomorrow Assigned, pending Consideration.

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

Bill, "An Act to Review and Clarify the Freedom of Access Law." (H. P. 2226) (L. D. 2316)

Pending — Consideration

Whereupon, House Amendment "H" was Read.

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

Mr. KATZ: Mr. President, my missing amendment was not in proper form and it has gone back. I would hope that someone would table this for one legislative day.

Thereupon, on motion by Mr. Speers of Kennebec, tabled and Tomorrow Assigned, pending Adoption of House Amendment "H".

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

#### Committee of Conference Report

Bill, "An Act to Regulate Drinking Water." (S. P. 687) (L. D. 2198)

Pending — Motion by Senator Speers of Kennebec to Reject Conference Committee Report and Ask for a Second Committee of Conference.

On motion by Mr. Speers of Kennebec, tabled and Tomorrow Assigned, pending the motion by that Senator to Reject Conference Committee Report and Ask for a Second Committee of Conference.

#### Committee of Conference

On the disagreeing action of the two branches of the Legislature on Bill, "An Act to Implement a Central Licensing Division within the Department of Business Regulation" (H. P. 2153) (L. D. 2294), the President appointed the following Conferees on the part of the Senate:

Senators

CURTIS of Penobscot  
CONLEY of Cumberland  
GRAHAM of Cumberland.



On motion by Mrs. Cummings of Penobscot,  
Adjourned until 10 o'clock Monday morning,  
April 5, 1976