

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

Monday, April 5, 1976

Senate called to order by the President.
Prayer by the Honorable Gerard P. Conley of Portland:

Heavenly Father, as we prepare for our final days of this legislative session, we ask for your guidance that we may act as fruitful men and to deliberate as common men and reach the achievements and goals for the people of this state. Amen.

Reading of the Journal of Friday, April 2, 1976.

Papers from the House
Non-concurrent Matter

Bill, "An Act to Revise the Maine Criminal Code as Recommended by the Criminal Law Revision." (S. P. 777) (L. D. 2334)

In the House March 31, 1976, Passed to be Engrossed as Amended by Senate Amendments "A" (S-488), "B" (S-495), and "C" (S-496) and House Amendments "C" (H-1162), "D" (H-1170), "E" (H-1171) and "F" (H-1174).

In the Senate Passed to be Engrossed as Amended by Senate Amendments "A", "B" and "C" and House Amendment "C" and House Amendment "E", as Amended by Senate Amendment "A" Thereto (S-509), in non-concurrence.

Comes from the House, that Body having Adhered.

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

Joint Orders

ORDERED, the Senate concurring, that the following be recalled from the Governor's Office to the House: Bill, "An Act to Reorganize or Repeal Certain Activities and Agencies in Maine State Government." (H. P. 2143) (L. D. 2286) (H. P. 2282)

Comes from the House, Read and Passed.
Which was Read and Passed in concurrence.

WHEREAS, the present compact between Maine and the University of Vermont College of Medicine for the medical education of Maine residents is scheduled to terminate with the admission of a final group of students in the fall of 1976; and

WHEREAS, the compact has proven of value both to the students and to the State of Maine in meeting its need for medical education and health care; and

WHEREAS, the University of Vermont and Tufts University have recommended to Maine a new compact which would increase the number of Maine residents receiving medical education at the University of Vermont College of Medicine and would make such medical education available at Tufts University, as well as at Vermont; and

WHEREAS, the Committee to Improve Medical Manpower and Education approved in principle the further development of contractual opportunities for medical education of Maine residents at the University of Vermont and Tufts University, while reserving its right to consider and recommend alternatives in the future; and

WHEREAS, the proposal for a new compact would increase the opportunity for Maine students to receive a medical education and would also require as a condition for graduation that a portion of the clinical education of Maine residents take place in Maine; and

WHEREAS, both universities need to have an indication from the State of Maine as to its intentions and attitude toward the compact for the medical education of Maine residents; now, therefore, be it

ORDERED, the Senate concurring, that the

107th Maine Legislature, while realizing that final decisions on a new compact and the appropriation of funds for students starting the 1977-78 academic year must be made by the 108th Maine Legislature, nevertheless, recognizes the value of the compact and indicates its approval of the State starting negotiations to enter into a contract with both Tufts University and the University of Vermont which will increase the number of Maine residents receiving medical education; and be it further

ORDERED, upon final passage, that suitable copies of this Order be forwarded to the Deans of Tufts University and the University of Vermont. (H. P. 2280)

Comes from the House, Read and Passed.
Which was Read and Passed in concurrence.

State of Maine

In The Year Of Our Lord One Thousand Nine Hundred and Seventy-six.

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of St. Mary's CYO of Houlton State Of Maine Catholic Youth Organization Basketball Champions 1975

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

ORDER and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (H. P. 2274)

Comes from the House, Read and Passed.
Which was Read and Passed in concurrence.

State of Maine

In The Year Of Our Lord One Thousand Nine Hundred and Seventy-six.

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Jill Pingree — Temple, Maine Mt. Blue High School Junior National Winner — Discus Throw Intermediate Division AAU

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

ORDER and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (H. P. 2276)

Comes from the House, Read and Passed.
Which was Read and Passed in concurrence.

State of Maine

In The Year Of Our Lord One Thousand Nine Hundred and Seventy-six.

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Hilda Jacob Administrative Secretary Of The State Law Library Who Is Retiring After 43 Years Of Service To The State

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

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

people of the State of Maine. (H. P. 2279)
Comes from the House, Read and Passed.
Which was Read and Passed in concurrence.

Communications

State of Maine
One Hundred and Seventh Legislature
Committee on Business Legislation
April 2, 1976

The Honorable Joseph Sewall
President of the Maine Senate
State House
Augusta, Maine 04333
Dear President Sewall:

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

Total Bills Received	19
Unanimous Reports	15
Leave to Withdraw	1
Ought to Pass	2
Ought to Pass as Amended	7
Ought to Pass in New Draft	4
Ought Not to Pass	1
Divided Reports	4
Total Number of Amendments	11
Total Number of New Drafts	4

Respectfully,

Signed: JOHN L. THOMAS, JR.
Senate Chairman
Which was Read and Ordered Placed on File.

State of Maine
One Hundred and Seventh Legislature
Committee on State Government
April 2, 1976

The Hon. Joseph Sewall
President of the Senate
State House
Augusta, Maine 04330
Dear Mr. President:

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

Total Number of Bills Presented	25
Unanimous Reports	19
Ought to Pass	6
Ought Not to Pass	2
Ought to Pass as Amended	9
Referred from other Committee	1
Leave to Withdraw	2
Divided Reports	5
New Drafts	2

Sincerely yours,

Signed: THEODORE S. CURTIS, JR.
Senate Chairman
Which was Read and Ordered Placed on File.

April 2, 1976

Honorable Harry N. Starbranch
Secretary of the Senate
Maine State Senate
State House
Augusta, Maine
Dear Mr. Secretary:

House Paper 1996, Legislative Document 2177 having been returned by the Governor together with his objections to the same, pursuant to the provisions of the Constitution of the State of Maine, after reconsideration, the House proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

Fifty-three voted in favor and ninety-five against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Respectfully,

Signed: EDWIN H. PERT

Clerk of the House
Which was Read and Ordered Placed on File.

State of Maine
Office of the Governor
Augusta, Maine
04330

March 31, 1976

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

I am today returning without my signature and approval H.P. 1966, L. D. 2155, "An Act Regarding the Rights of Students at the University of Maine in the University Bargaining Process."

I am constrained to withhold my approval of this bill for two main reasons:

(1) There is nothing under existing law which prohibits the University bargaining team or the trustees of the University from getting input from students or whomever they wish during the negotiating process. Consequently, I view this as unnecessary legislation.

(2) This bill involves one of many potential special groups in the collective bargaining process. I think it is incumbent upon the administration to balance the interests of students, faculty, alumni and employees of the University and the taxpayers of Maine. To give one group special privileges in the bargaining process could set a precedent for eventually involving other parties with the possibility of so many involved that the basic objective of desirable and necessary collective bargaining breaks down because by design its structure depends on bringing a few representatives and experts together to resolve the problems of many.

I believe it would be as discriminatory to include students specifically without also including "Alumni", or "Faculty" or "Friends of the University" or to specify a taxpayer or other specific group as the collective bargaining process by its very nature is already required by law to be representative of all parties.

I believe this legislation, albeit unintentional, is not fair to the students as it could mislead them into believing the legislation provides them rights greater than is in fact allowed. I also feel it is more form than substance as it creates a facade of involvement not truly supportive in actuality to the extent the students directly and/or indirectly presently have opportunity for input.

This also could prove extremely demanding and time consuming for the students involved. Collective bargaining sessions can consume hours and days and could therefore take students away from their studies for extended periods of time, should they be called upon and desire to become totally involved.

Our research in conjunction with this bill leads me to commend the University for the great strides it has made in seeking student input and in appointing students to advisory committees of the University. It would also appear to me that this same type of input in labor considerations leading to collective bargaining could be equally beneficial to the board of trustees if it is not being done already. This would, in effect, be a more viable and realistic alternative than additional, unnecessary legislation.

In summary, I see no necessity for this legislation, and there is the possibility that it could further complicate the already difficult job of administering the University and possibly delay and/or increase the expense of the collective bargaining process. I hope that the Legislature in its collective wisdom will, upon further consideration, agree with me.

Very truly yours,
JAMES B. LONGLEY
(H. P. 2284)

Comes from the House, Read and Ordered Placed on File.

Which was Read and Ordered Placed on file in concurrence.

The accompanying Bill, "An Act Regarding the Rights of Students at the University of Maine in the University Bargaining Process" (H. P. 1966) (L. D. 2155) comes from the House with the following endorsement:

In the House April 2, 1976, this Bill, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration, the House proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

107 voted in favor and 34 against, and accordingly it was the vote of the House that the Bill become a law, notwithstanding the objections of the Governor, since two-thirds of the House so voted.

(Signed)

EDWIN H. PERT
Clerk of the House

The PRESIDENT: The pending question before the Senate is: 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. Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President and Members of the Senate: This is a bill which was debated at some length prior to being enacted here in the Senate, and I hope that at this time we will stand firm in our support for this piece of legislation regardless of the veto message which is before us today.

Having read the veto message and considered it, it seems to me that the suggestions made by the chief executive of the state ought to be responded to, and I would point out that the very first point on page five of the calendar made by the Governor is probably not valid. The rules of confidentiality in any negotiations would prevent discussions of what is going on in the negotiations themselves with individuals or groups who were not parties to the negotiations. So I submit that the students could not be consulted after negotiations have commenced without the piece of legislation which we have enacted.

Point number two made by the Governor is one that I find very difficult to understand because it seems to me that the students are the only group directly financially involved with the results of collective bargaining who are not participants. The faculty who are mentioned in the message before us have an opportunity to be directly involved in the collective bargaining process. The alumni and the friends of the university, of whom there are many in this state, are not required to be directly involved with a financial commitment; only the students are.

I think that the comment by the Governor in his message that this could prove extremely demanding and time consuming for the students involved indicates a lack of understanding under the bill in which the students would only be able to meet with the administration at reasonable intervals and not continuously during negotiations.

I think under the circumstances that this piece of legislation is a reasonable approach to a very difficult problem and that without it there will be a situation in which collective bargaining may progress without any input or opportunity for input from an extremely important segment of people who are directly involved and affected by the results of those negotiations. I hope the Senate will vote to override.

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

Mr. ROBERTS: Mr. President and Members of the Senate: I would just like to make three points, if I may, with respect to the veto message. One, the rules of confidentiality at the negotiations would not prevent discussion of what is going on in the negotiations; and therefore students really wouldn't be a party of it and wouldn't in any way interfere, or shouldn't with the negotiations.

Another point the Governor brought up which I would like to question is that we don't feel the alumni or the friends of the university have any specific or at least not a direct interest in the school in the sense that they are being left out of this. I am sure they have an interest in the school as a whole and will support it, the same as I do with my college, but I certainly don't think they are in the same position and what is decided there doesn't affect them anywhere as directly as the students.

The third point has been already brought up by the good Senator from Penobscot, Senator Curtis, that the demand on the students' time certainly wouldn't be anything unusual. I find that if students are motivated by something they can find plenty of time to put into that and it doesn't seem to affect their studies. What affects their studies is when they are not motivated.

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

Mr. PRAY: Mr. President and Members of the Senate: There is one point I made when we debated this bill earlier that I would like to make again, and it kind of goes along with the Governor's message, in a sense, that this law is not really needed at this time. Under the present statutes, the first consideration to be given by the arbitrators is the interest and the welfare of the students. I think the present system that we have in the collective bargaining process, which hasn't been put into practice yet, should be left alone at this time and we should all understand that the interest and the welfare of the students, for one thing, is being taken into consideration, I believe, both by the board of trustees and definitely would be taken into consideration by the bargaining units. I think if anybody is assured that professors and faculty going in and bargaining for perhaps a pay increase or shorter hours, or something, would definitely take into consideration the credibility of the university. Along with credibility of the university comes more students. So I am sure that the students are not going to be shortchanged to affect the quality of education that they are going to receive. I would hope that the members of this body can go along with the governor and sustain the veto.

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 E. Berry, R. Berry, Carbonneau, Cianchette, Collins, Conley, Corson, Cummings, Curtis, Cyr, Danton, Gahagan, Graffam, Graham, Huber, Jackson, Johnston, Katz, McNally, Merrill, Roberts, Speers, Thomas, Trotzky.

NAYS: Senators Clifford, Greeley, Hichens, Marcotte, O'Leary, Pray, Wyman.

ABSENT: Senator Reeves.

A roll call was had, 24 Senators having voted in the affirmative, and seven Senators having voted in the negative, with one Senator being absent, and 24 being more than two-thirds of the membership present, the Bill became a law notwithstanding the objections of the Governor and the Secretary presented the Bill to the Secretary of State.

Committee Reports**House****Ought to Pass — As Amended**

The Committee on State Government on, Bill, "An Act Redistributing the Powers of the Executive Council." (H. P. 1997) (L. D. 2197)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-1115).

Comes from the House, the Bill Passed to be Engrossed as Amended by Committee Amendment "A" and House Amendments "A" (H-1166), "B" (H-1177), "C" (H-1183), "E" (H-1191) and "F" (H-1196).

Which report was Read and Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read.

On motion by Mr. Speers of Kennebec, tabled until later in today's session, pending Adoption of Committee Amendment "A".

Senate**Ought to Pass — As Amended**

Mr. Collins for the Committee on Judiciary on, Bill, "An Act to Clarify Certain Laws Relating to the Funding and Operation of the Superior and Supreme Judicial Courts." (S. P. 712) (L. D. 2243)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-516).

Which report was Read and Accepted and the Bill Read Once. Committee Amendment "A" was Read.

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

Mr. CONLEY: Mr. President, I would inquire through the Chair, if I may, to the Chairman of the Judiciary Committee as to whether or not this is the same bill that was before the Appropriations Committee and then referred to the Judiciary Committee. If so, I would like to know if Section 23 that is being struck out of this bill deals with the clerk of court's position.

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question through the Chair to any member of the Judiciary Committee who may care to answer: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President and Members of the Senate: In answer to the Senator from Cumberland, Senator Conley, this is the same bill which was originally referred to the Committee on Appropriations and which the Committee on Appropriations then sent to the Judiciary Committee for further review and consideration.

I understood the question to relate to Section 23, and I believe that in the committee amendment we have covered the various objections that were raised in the Appropriations Committee and by the court administrator, by the state treasurer and comptroller at a conference of representatives of the superior court and district court. I am not sure that I understand the import of the question as to Section 23, but possibly one of my colleagues on the committee understands better than I.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: The committee amendment which is under filing No. S-516 strikes out Section 23 of the bill.

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

Thereupon, Committee Amendment "A" was Adopted and under suspension of the rules, the Bill, as Amended, was Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

Divided Report

Four members of the Committee on Ap-

propriations and Financial Affairs on, Bill, "An Act to Revise and Reallocate Appropriations from the General Fund for the Expenditures of State Government for the Fiscal Years Ending June 30, 1976 and June 30, 1977 and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government." (S. P. 700) (L. D. 2225)

Reported in Report "A" that the same Ought to Pass in New Draft Under Same Title (S. P. 790) (L. D. 2341)

Signed:

Representatives:

LeBLANC of Van Buren
SMITH of Dover-Foxcroft
CARTER of Winslow
GOODWIN of Bath

Four members of the same Committee on the same subject matter reported in Report "B" that the same Ought to Pass in New Draft under Same Title (S. P. 791) (L. D. 2342)

Signed:

Senators:

HUBER of Cumberland
GAHAGAN of Aroostook

Representatives:

GARSOE of Cumberland
MacLEOD of Bar Harbor

Two members of the same Committee on the same subject matter reported in Report "C" that the same Ought to Pass in New Draft under Same Title (S. P. 792) (L. D. 2343)

Signed:

Senator:

MARCOTTE of York

Representative:

JALBERT of Lewiston

Which reports were Read.

Mr. Huber of Cumberland moved that the Senate Accept the Ought to Pass in New Draft Report "B" of the Committee.

On motion by Mr. Speers of Kennebec, tabled until later in today's session, pending the motion by Mr. Huber of Cumberland to accept the Ought to Pass in New Draft Report "B" of the Committee.

Enactors

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

An Act to Provide for the Position of Associate Administrative Court Judge and to Revise the Administrative Court Law. (S. P. 783) (L. D. 2338)

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

An Act Relating to Property of Survivor where Joint Deposits or Accounts are Involved. (S. P. 664) (L. D. 2102)

An Act Relating to the Form of Ballots. (H. P. 2063) (L. D. 2233)

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

Emergencies

An Act Clarifying the Use of the Mental Health Improvement Fund. (H. P. 2068) (L. D. 2238)

Mr. Huber of Cumberland then moved that the Bill be Indefinitely Postponed.

The PRESIDENT: The Senator has the floor.

Mr. HUBER: Mr. President and Members of the Senate: This bill provides, in reference to the mental health improvement fund, which is a federal fund, that the disposition of this fund be approved by the legislature. I am informed that this would have a detrimental effect on the plans to gain accreditation at Pineland Center because of this requirement of legislative approval rather than approval of the governor and council. The tying up of these funds would adversely affect the attempt to gain accredita-

tion at Pineland. Therefore, I hope you would support the motion to indefinitely postpone this bill.

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

Mr. HICHENS: Mr. President and Members of the Senate: I rise in opposition to the motion to indefinitely postpone this bill. This bill came out of the study of the Health and Institutional Services Committee as a result of the Attorney General's ruling last year that funds generated through mental retardation could not be used for mental retardation because of the present law that we have.

It was suggested by the Attorney General at that time that a law be passed which would allow these funds to be used as they had been in the past, perhaps illegally, but to make it legal so that they could be used in that way. The committee studied it and talked to the Commissioners of both the Human Services Department and Mental Health and Corrections, and came out with this bill which has been approved by the committee unanimously and by the House on a very strong vote, and then suddenly we have the disapproval from the governor's office, mainly because of the fact of the approval of the funds by the legislature. That is the main reason for this part of the bill, because the Human Services Department in the past has been using it any way they wanted to and the Commissioner of Mental Health and Corrections has been very much upset, along with the Director of Mental Retardation, and the people concerned at Pineland.

I believe that we should pass this bill, that these funds may be used the way they want to, and that they should be approved by the legislature with the provision that is granted, that fifteen percent of the funds in any area of the plan can be transferred to another area with the approval of the Governor and the Director of the Human Services Department.

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

Mr. BERRY: Mr. President and Members of the Senate: I wholeheartedly concur with the good Senator from York, Senator Hichens and I would hope that the body this morning would see fit to defeat the motion before us. The funds that we are talking about are federal funds which are generated by mental retardation. In the past, the Senator is correct, approximately fifty percent of those funds have been used for mental retardation and the rest have been used for various social services.

I think the important thing is that the way this bill sets it up now both commissioners, the Commissioner of Corrections and the Commissioner of Health, would have to come before the legislative body with a proposal for the allocation of these funds. I think it will only assure that the funds go for their original intent, or a portion of them; the bill requires not less than fifty percent for mental retardation. I think that is the intent of the money from the federal government and we should uphold it.

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

Mr. GAHAGAN: Mr. President and Members of the Senate: I too rise in opposition to the pending motion to indefinitely postpone this bill. I think this is an example of an opportunity that we have to do something for an area of state government which does not have a viable or even an active political constituency. At a time when the state government has extreme financial problems, I do not think the people in the area of mental health or corrections should have to suffer just because the financial picture of the state is not as good as it should be. When you talk about cost effectiveness in government you have a very difficult time to prove cost effectiveness in the area of mental health and corrections. What we are talking about here is a

priority program. We are talking about allocating state resources to a program which should be supported regardless of the economic situation in the State of Maine.

I am quite surprised at this late date that this motion to indefinitely postpone would come up, as the Senator from York, Senator Hichens, has indicated, and I would hope that we would vote against this motion to indefinitely postpone.

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

Mr. HUBER: Mr. President and Members of the Senate: I request permission to withdraw my motion.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now requests leave of the Senate to withdraw his motion to indefinitely postpone L. D. 2238. Is it the pleasure of the Senate to grant this leave?

It is a vote.

Thereupon, this being an emergency measure and having received the affirmative votes of 29 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.

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

Mr. HICHENS: Mr. President, in relation to the bill which we just enacted, I move that we reconsider our action and hope you vote against it.

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

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

An Act Relating to Exceptional Children. (H. P. 1797) (L. D. 1956)

An Act to Revise the Laws Relating to the Maine Traffic Court. (H. P. 2257) (L. D. 2327)

These being emergency measures and having received the affirmative votes of 31 members of the Senate, were Passed to be Enacted and, having been signed by the President, were by the Secretary presented to the Governor for his approval.

Orders of the Day

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

Bill, "An Act Relating to a Cost-of-Living Adjustment for State Retirees." (S. P. 618) (L. D. 1950)

Tabled — April 1, 1976 by Senator Speers of Kennebec.

Pending — Passage to be Engrossed.

(In the Senate — Committee Amendment "A" (S-507) Adopted).

On motion by Mr. Speers of Kennebec, retabled and Specially Assigned for April 7, 1976, pending Passage to be Engrossed.

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

Bill, "An Act Relating to Teacher Employment." (S. P. 640) (L. D. 2029)

Tabled — April 2, 1976 by Senator Speers of Kennebec.

Pending — Consideration.

(In the Senate — Veto Sustained, subsequently reconsidered)

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

Mr. KATZ: Mr. President and Members of the Senate: I would like to read a letter that was on my desk, and I understand that it was not completely distributed. It seems to point up the issue here this morning so beautifully. It is from Ben Dorsky, the President of the AFL-CIO, who is normally up in the halls of this

building but we have missed him because he has been suffering from poor health.

Ben writes as follows: "This is an issue that is fundamental to the collective bargaining process. The issue reduces itself to the question as to whether or not teachers will be allowed the same rights now extended to all others in both the private and the public sector to negotiate the conditions under which dismissals will occur." I think it is that simple.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Cummings.

Mrs. CUMMINGS: Mr. President, are we voting on reconsideration or on the Governor's veto.

The PRESIDENT: The Chair would advise the Senator that we are voting on the veto question. The prior question has already been reconsidered. 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.; Carbonneau, Cianchette, Clifford, Collins, Conley, Corson, Curtis, Cyr, Danton, Gahagan, Graham, Jackson, Johnston, Katz, Marcotte, McNally, Merrill, Pray, Roberts, Speers, Thomas.

NAYS: Senators Berry, R.; Cummings, Graf-fam, Greeley, Hichens, Huber, O'Leary, Trotzky, Wyman.

ABSENT: Senator Reeves.

A roll call was had. 22 Senators having voted in the affirmative, and nine Senators having voted in the negative, with one Senator being absent, and 22 being more than two-thirds of the membership present, it was the vote of the Senate that the bill become a law notwithstanding the objections of the Governor and was sent to the House for concurrence.

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

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

Tabled — April 2, 1976 by Senator Speers of Kennebec.

Pending — Adoption of House Amendment "A" (H-1186)

(In the House — Passed to be Engrossed as Amended by House Amendments "A" (H-1034), "B" (H-1044), "E" (H-1110), "F" (H-1137) "G" (H-1146) and "H").

(In the Senate — Passed to be Engrossed as Amended by House Amendments "B", "E", "F", and "G", in non-concurrence).

House Amendment "H" was Adopted in concurrence.

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

Senate Amendment "A", Filing No. S-517, was Read.

The PRESIDENT: The Senator has the floor.

Mr. KATZ: Mr. President and Members of the Senate: The Senate has already dealt with the fact that with respect to public employment there are two classes of employees. In the case of teachers there are probationary employees, and this amendment signals that this difference between them, probationary employees, shall prevail in this law too.

The PRESIDENT: Is the Senate ready for the question?

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

Sent down for concurrence.

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

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

Tabled — April 2, 1976 by Senator Speers of Kennebec.

Pending — Motion of Senator Speers of Kennebec to reject the report and further insist and ask for a second Committee of Conference.

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

Mrs. CUMMINGS: Mr. President and Members of the Senate: I would hope this would go through. We have already had some discussions in the committee of conference and I think a compromise can be made, so I hope that this motion would prevail.

The PRESIDENT: Is it now the pleasure of the Senate to insist and ask for a second committee of conference with the House?

The motion prevailed.

Thereupon, the President appointed the following Conferees on the part of the Senate: Senators:

CUMMINGS of Penobscot
CYR of Aroostook
GREELEY of Waldo

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

On motion by Mrs. Cummings of Penobscot, Recessed until 2 o'clock this afternoon.

After Recess

Called to order by the President.

Papers From the House

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

Non-concurrent Matter

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

In the Senate April 2, 1976, Passed to be Engrossed as Amended by Committee Amendment "B" (H-1050), as Amended by House Amendments "A" (H-1068), "B" (H-1163), "C" (H-1164), "D" (H-1172) and "E" (H-1175) There to, and Senate Amendments "A" (S-510), "B" (S-512) and "C" (S-513), in non-concurrence.

Comes from the House, Passed to be Engrossed as Amended by Committee Amendment "B", as Amended by House Amendments "A", "B", "C", "D" and "E" There to, and Senate Amendments "A" and "C", in non-concurrence.

Mr. Pray of Penobscot moved that the Senate Recede and Concur, and Mr. Berry of Cumberland subsequently requested a division on the motion. Mr. Pray of Penobscot then requested 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 and stand in their places until counted.

One-fifth having arisen, a roll call is ordered.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, reading down through very quickly the action in the other body, I note that the only amendment that was not agreed to with the Senate was Senate Amendment "B" under Filing No. S-512, which was the amendment offered by the Senator from Somerset, Senator Corson, which, as I understand it, removes the mandatory sentencing provision for any person convicted of night hunting. I think a motion to recede and concur with the House would be in favor of retaining the mandatory sentence for conviction of night hunting, while a motion to insist on Senate action would be in favor of the position of removing the mandatory sentencing provision for a conviction of night hunting. I stand to be corrected if that is not correct, but I believe that it is the only difference between the two branches.

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

Mr. PRAY: Mr. President and Members of the Senate: There is just one other point I would like to make. The amendment that was passed in this body also lowers the fine by \$300, and I would hope that by receding and concurring with the House that we can get this bill, which has been bouncing around with amendments being added seemingly every time it lands somewhere.

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 the Senate recede and concur with the House. A "Yes" vote will be in favor of receding and concurring; a "Nay" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators E. Berry, R. Berry, Cianchette, Collins, Conley, Curtis, Cyr, Danton, Gahagan, Graffam, Graham, Greeley, Hichens, Huber, Jackson, Johnston, Katz, McNally, Pray, Speers, Thomas, Trotzky, Wyman.

NAYS: Senators Corson, Cummings, Merrill, O'Leary, Roberts.

ABSENT: Senators, Carbonneau, Clifford, Marcotte, Reeves.

A roll call was had. 23 Senators having voted in the affirmative, and five Senators having voted in the negative, with four Senators being absent, the motion prevailed.

Non-Concurrent Matter

Bill, "An Act to Clarify Certain Provisions in the Education Laws." (S. P. 651) (L. D. 2056)

In the Senate March 31, 1976, Passed to be Engrossed as Amended by Committee Amendment "A" (S-480) as Amended by Senate Amendment "A" Thereto (S-500) and Senate Amendment "B" (S-502).

Comes from the House, Passed to be Engrossed as Amended by Committee Amendment "A" as Amended by House Amendments "E" (H-1180) and "G" (H-1192) and Senate Amendment "A" Thereto (S-500) and Senate Amendment "B" and House Amendments "A" (H-1132) and "B" (H-1173), in non-concurrence.

On motion by Mr. Katz of Kennebec, the Senate voted to Recede.

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

Joint Orders

State of Maine

In The Year Of Our Lord One Thousand Nine Hundred and Seventy-six.

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Toby Doak of Rangeley winner of the 1976 Franklin County Spelling Bee sponsored by the Maine Sunday Telegram

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

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (H. P. 2283)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

State of Maine

In The Year Of Our Lord One Thousand Nine Hundred and Seventy-six

WHEREAS, The Legislature has learned of

the Outstanding Achievement and Exceptional Accomplishment of George Hale of Bangor named by the National Sportscasters and Sportswriters Association as Maine's Sports-caster of The Year for 1975

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

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (H. P. 2285)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

Communications

State of Maine

**One Hundred and Seventh Legislature
Committee on Agriculture**

April 6, 1976

Honorable Joseph Sewall
President of the Senate
State House
Augusta, Maine 04333

Dear President Sewall:

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

Total Number of Bills Presented	6
Ought to Pass	1
Ought to Pass in New Draft	1
Ought to Pass as Amended	2
Divided	1
Ought Not to Pass	1

Sincerely Yours,

Signed:

WALTER W. HICHENS
Senate Chairman

Which was Read and Ordered Placed on File.

Committee Reports

House

Ought to Pass in New Draft

The Committee on Liquor Control on, Bill, "An Act to Revise the Liquor Laws of Maine." (H. P. 2024) (L. D. 2199)

Reports that the same Ought to Pass in New Draft under New Title: "An Act to Revise the Statutes Concerning Alcoholic Beverages" (H. P. 2223) (L. D. 2311).

Comes from the House, the Bill, in New Draft, Passed to be Engrossed as Amended by House Amendments "A" (H-1048), "B" (H-1062), "C" (H-1066), "E" (H-1078), "F" (H-1086), "G" (H-1087), "H" (H-1094) and "J" (H-1113).

Which report was Read and Accepted in concurrence and the Bill in New Draft Read Once.

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

Mr. KATZ: Mr. President, before we get into these lengthy amendments, the Senate will recall that last year we had a bill pertaining to tennis clubs on which there was a difference of opinion, and then because we are men and women of good faith we got together and we agreed on a common denominator by which tennis clubs would be given liquor permits. I have an impression in reading this bill that it wipes out the agreement we made last year concerning the service of food. Could I ask from any member of the committee whether or not I should be reassured or I should continue to feel nervous.

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

The Chair recognizes the Senator from Cumberland, Senator Graffam.

Mr. GRAFFAM: Mr. President, I think the

only change in that provision was that we just changed the date, because the date on that was 1977 and we had to have a little more time to see if it would work, to see if it would do its job, so they just moved it up one year.

The PRESIDENT: The Secretary will read House Amendment "A".

House Amendments "A", "B", "C", "E", "F", "G", "H" and "J" were Read and Adopted in concurrence and, under suspension of the rules, the Bill, as Amended, was Read a Second Time.

The PRESIDENT: Is it now the pleasure of the Senate that this bill be passed to be engrossed?

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: I have been prepared an amendment to the bill itself, which I have discussed with the chairman and the ranking Democratic member on the committee, and I wonder if somebody could table this until later in today's session.

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

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

Enactors

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

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 Sub-contractors. (H. P. 2126) (L. D. 2274)

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

Mr. COLLINS: Mr. President, this bill represents a great deal of work on the part of the Judiciary Committee, and I wanted to say a word of particular appreciation to the Senator from Cumberland, Senator Merrill, for the work that he has done on this bill and to say that I concur with all that he has said about its values and its meaning.

The PRESIDENT: Is it now the pleasure of the Senate that this bill be passed to be enacted?

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

Emergency

Resolve, to Require the Department of Human Services to Reopen the Itinerant Office in Belfast. (H. P. 2269) (L. D. 2336)

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

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

Bill, "An Act to Revise the Maine Criminal Code as Recommended by the Criminal Law Revision." (S. P. 777) (L. D. 2334)

Tabled — April 5, 1976 by Senator Speers of Kennebec

Pending — Consideration

(In the House — Passed to be Engrossed as amended by Senate Amendments "A" (S-488), "B" (S-495), and "C" (S-496) and House Amendments "C" (H-1162), "D" (H-1170), "E" (H-1171) and "F" (H-1174).

(In the Senate — Passed to be Engrossed as Amended by Senate Amendments "A", "B" and "C" and House Amendment "C" and House Amendment "E", as Amended by Senate Amendment "A" Thereto, (S-509), in non-concurrence.)

Mr. Collins of Knox moved that the Senate Recede and Concur.

The PRESIDENT: The Senator has the floor.

Mr. COLLINS: Mr. President, this is a motion that I make with a heavy heart. The bill before us is voluminous and it contains a great many important provisions to the success and implementation of our new criminal code. It is an emergency measure because the criminal code as enacted in the regular session is now scheduled to take effect on May 1st.

There are features of this bill that are most distressing to members of the Judiciary Committee in particular because we feel that mandatory sentencing is an impediment to the efficient administration of criminal justice. But there are so many things in this bill of importance, and there is such a great danger of these good things being lost, that I feel we should move ahead to the enactment and work on some of the imperfections thereby created at a later time.

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

Mr. MERRILL: Mr. President, I believe the effect of receding and concurring would be to put into our criminal code mandatory sentences for both burglary and crimes committed with a firearm, and although I agree with some of the concerns raised by the Senator from Knox, Senator Collins, my concern about that, particularly in regards to burglary, bring me to vote against the bill. And I would ask that there be a division when the question is put to the Senate.

The PRESIDENT: A division has been requested. Is the Senate ready for the question?

The pending question before the Senate is the motion by the Senator from Knox, Senator Collins, that the Senate recede and concur with the House. Will all those Senators in favor of this motion to recede and concur please rise in their places until counted. Those opposed will rise in their places until counted.

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

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

Bill, "An Act Redistributing the Powers of the Executive Council." (H. P. 1997) (L. D. 2197)

Tabled — April 5, 1976 by Senator Speers of Kennebec

Pending — Adoption of Committee Amendment "A" (H-1115)

(In the House — Passed to be Engrossed as Amended by Committee Amendment "A" and House Amendments "A" (H-1166), "B" (H-1177) "C" (H-1183), "E" (H-1191) and "F" (H-1196)).

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

Mr. CONLEY: Mr. President, it is my understanding there is an amendment being prepared and it should be here very shortly, so I would appreciate it if this could be tabled until later today.

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

Mr. BERRY: Mr. President, assuming that was not a tabling motion, it seems to me that there is quite a lot of work that can be done on this bill up until that point, and I would think that perhaps we ought to do it.

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

Mr. CIANCHETTE: Mr. President, I am having an amendment prepared that would be an amendment to Committee Amendment "A", and it is my understanding that it should be done at this posture. Therefore, it would be nice if someone would table it until later in today's session.

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

Mr. SPEERS: Mr. President, I would ask through the Chair whether or not there are other amendments that are to be offered to Committee Amendment "A". If so, I would hope that we would defer tabling it and proceed to consider those amendments, and then table it should that amendment that is to be offered by the good Senator from Somerset, Senator Cianchette, not be ready at that time.

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

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

Senate Amendment "A", Filing No. S-519, to Committee Amendment "A" was Read.

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

Mr. CURTIS: Mr. President, this amendment which is before you was suggested by the Secretary of State's Office. I think it falls into the category of a rather procedural technical proposal which was not suggested in time for the committee to include it right in its amendment. I don't think there will be any problem with the adoption, but if anyone would like a more detailed explanation than what is provided under the S-519 statement of fact, I would be glad to provide it.

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

The motion prevailed.

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

Thereupon, on motion by Mr. Conley of Cumberland, tabled until later in today's session, pending Adoption of Committee Amendment "A".

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

Senate Reports — from the Committee on Appropriations and Financial Affairs — Bill, "An Act to Revise and Reallocate Appropriations from the General Fund for the Expenditures of State Government for the Fiscal Years Ending June 30, 1976 and June 30, 1977 and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government." (S. P. 700) (L. D. 2225) Report "A" Ought to Pass in New Draft Under Same Title (S. P. 790) (L. D. 2341); Report "B" Ought to Pass in New Draft under Same Title (S. P. 791) (L. D. 2342); Report "C" Ought to Pass in New Draft under Same Title (S. P. 792) (L. D. 2343)

Tabled — April 5, 1976 by Senator Speers of Kennebec

Pending — Motion of Senator Huber of Cumberland to Accept Report "B"

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

Mr. HUBER: Mr. President and Members of the Senate: In light of the report of the Appropriations Committee which, after accepting all the remedies to the substantial deficits outlined in the report of January 29th to the Legislative Council, the signers of this report, Report "B" from the Appropriations Committee, decided that Report "B" should not expand any programs and should not contain any new programs. This deficit could amount, even after the remedies proposed by the Governor, up to the neighborhood of approximately 16 million dollars.

This report attempts to force the state to live within its current income. It does not use one-time funding for continuing expenses.

I would like very briefly to go through the provisions contained in this report, and I am sorry that it can't be briefer. Basically, the overall effect of this report will be to increase the Governor's balance by approximately \$300,000, from \$616,000 to \$918,000. It would do so in the following fashion:

In terms of increased revenues and increased surplus, there are six items. \$160,000 will be generated by enforcement of the existing sales tax law on casual sales of automobiles. This enforcement will be done by the Secretary of State as a prerequisite to registration. This would produce \$160,000.

This would also utilize \$75,000 of interest anticipated for the fiscal year '77 from the unorganized territories' school fund, as well as utilizing \$283,000 roughly of accumulated interest in this account. Since the advent of L. D. 1994 and 1452 this fund, which was set up for educational purposes, has had really no legitimate use of the interest developed from the fund. We do not propose in this report touching the principal in this account, which I think would be an abrogation of the trust that set this fund up. It furthermore would have problems, I believe, with the articles of separation from the State of Massachusetts.

Additional funding will be provided in the amount of \$137,000 because of the latest estimate of the income produced by the taxation measures under the Education Funding Act as opposed to the expenses included in that act.

Further, there is a \$50,000 transfer from the general fund to the District Court, which will be counterbalanced by a similar measure in the expenditures section.

This bill further utilizes \$1,100,000 which is generated from a limitation of state revenue sharing to an amount of \$9,000,000. I am sure this will be discussed later as I have seen an amendment concerning this. But basically the towns, prior to passage of the Education Funding Act, anticipated \$8.8 million in state revenue sharing. Because of the income tax changes under the Education Funding Act, this amount would increase by \$1,100,000, and this \$9,000,000 limitation would allow towns to have those monies that they expected prior to passage of the Education Funding Act, yet would not give them the windfall that they would receive under this act.

Report "B" also includes \$130,000 in working capital repayments from three specific state agencies. These agencies have had interest free general fund loans, most of them due within ten years from the date of the loan, and this bill would utilize \$15,000 from the Seed Potato Board fund. They were originally loaned \$50,000, and they have two years to repay this general fund money. This would utilize \$15,000 of that fund. It would further utilize \$65,000 from the State Lottery fund and \$50,000 from the Postal, Printing and Supply fund, a total of \$130,000, which is a one-shot repayment of these loans to fund only one-shot items, one-time expenses in this bill; namely, \$110,000 for the general fund portion of the proposed compensation plan. This is a one-time bonus to the lowest paid state employees, plus \$20,000 to fund the Appeals Board under this bill.

The expenditures proposed in Report "B" include the above-mentioned two items, the \$110,000 bonus for general fund employees — and I might mention that this bonus would amount to \$262,000 for general fund employees, plus those compensated from other funds — and again, I have already mentioned the \$20,000 compensation for the Appeals Board to guarantee that we do get people to serve on this very important board and that it can promptly and properly finish its business.

This provides \$43,000 for the Legislative Research Office to republish two volumes of part of the statutes. This item we deferred during the last regular session but these, I am told by people who use these volumes more than I do, are getting in a considerable state of disrepair, and I think this is a continuing program which we should carry out.

This would reduce Indian scholarship funds by \$10,000. This \$10,000 was not recommended by the Department of Education.

It would further reduce the appropriation to Medical Care in fiscal year '77 by \$80,000, and would provide with this \$80,000 six positions in the Medical Care account for auditors to audit vendors of medical payments.

It would further reduce general assistance by \$150,000, and with this \$150,000 would refund the Alcoholism and Drug Abuse program which was funded for one year in the supplemental budget passed during the last session.

It would provide the notorious one million dollars to the Teachers' Retirement Fund, which the Appropriations Committee in its entirety made a first priority of the committee when funds were available. This one million dollars was not put in the Governor's budget. The Appropriations Committee went along with the Governor's recommendations, but I think it is time that we fulfilled this obligation to past employees.

It further provides \$20,000 to fund hopefully the final year of the Probate Laws Revision Commission, which hopefully will have the study of the Uniform Probate Code done in the upcoming year.

Again, the expenditure of \$50,000 in the District Court I have already mentioned.

This bill would also delete \$70,000 from the funding of the Civil Defense Department, this department having said that they could operate with \$67,000 less with no significant change in their operation.

\$53,000 are absorbed due to the abolition of the Executive Council.

The Criminal Justice Planning, familiarly known as LEAA, is reduced by \$100,000. This department says that they can absorb a decreased appropriation in the amount of \$76,000 with no significant change in their program. And because this program has been a very rapidly expanding program, and also because it is a program which utilizes federal funding which phases out, often leaving us to support these programs from state funding, this report anticipates an additional roughly \$24,000 decrease in this appropriation.

The Bureau of Taxation shows a decreased appropriation of \$30,000, which is in connection with the better enforcement of casual automobile sales, and will require less personnel in the Bureau of Taxation, for a saving of \$30,000.

The Insurance Advisory Board appropriation has been decreased \$75,000 due to decreasing premiums.

The Veterans Services Department has been decreased \$12,000.

\$12,500 has been provided for what is intended to be the final year of state support for the Saco River Corridor Commission, and language which entangles this commission with the legislature has also been deleted in this bill.

Finally, the University of Maine under this proposal will receive \$500,000 as opposed to their request, which is supposed to be a minimum request of \$6.4 million. In addition, they will receive \$200,000 for student aid money to at least partially counteract the increased tuitions proposed by the university itself in an attempt to fund through its own resources its needs.

The Maine Maritime Academy, as the final item, would also receive \$84,000, which would allow them to make a salary increase of approximately equal magnitude to that offered to state employees.

I think it is important to point out that this report, Report "B", does contain the Hay Report, implemented principally as outlined in L.D. 2225, but with some significant changes. Because L.D. 2225 mentioned tightening up on vacation and sick pay, and this has been misinterpreted as possibly going back on these benefits already offered to state employees, Report "B" contains the specific state policy in respect to sick leave and vacations that is in ef-

fect at this time. Any administrative tightening of this program to prevent possible misuse or abuse of sick leave would be allowed as it certainly is allowed now.

The temporary compensation review board, the Appeals Board, is expanded to seven members, as opposed to the five members proposed in L.D. 2225, to allow one member to be appointed by the President of the Senate and one member to be appointed by the Speaker of the House. The Board is also provided with compensation, as I have mentioned already. Any appeals beyond the effective date of this act would be made retroactive to the July 1st effective date, if this measure passes.

On the commissioner recommendations contained within L.D. 2225, these have been reduced to 5 percent increases of existing salaries, plus the same merit provisions and steps as provided to all other state employees.

Basically, I think this is a responsible bill in light of the substantial deficits which we could face. It does not use one-time funding. It does not essentially dip into the cookie jar to fund new or expanded programs. I think when in fact we do have an upturn in our revenues, when in fact the cost saving programs that have been effected by this legislature, and that hopefully will be effected by the joint efforts between the legislature and the executive department, take effect, and when we in fact have savings or increased revenues in hand, this is, I feel, the time to consider with a conscious decision expansion of programs in a real way to face the very real needs of many of these programs. So basically I feel this is a responsible proposal, considering our financial situation at this time, and I hope that the Senate will accept Report "B".

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

Mr. CONLEY: Mr. President and Members of the Senate: First, I want to extend my congratulations to the Chairman of the Appropriations Committee, Senator Huber of Cumberland, for the many hours that have been put in by him and the members of his committee. I know of the long hours that he and the members of his committee have put in on these documents before us today, and it is my understanding that there are three areas of disagreement, that is, within the three documents. But if we narrow them down, I believe the basic differences of the two reports that are in disagreement are primarily the implication of the Hay Report and, secondly, the fact that there have been no monies made available under Report "B" for the purposes of increasing grant aid to AFDC recipients.

I think when you consider the fact that the Appropriations Committee has been locked up since last January and is finally coming down with a budget, the fact that it is not a unanimous one is somewhat unique. I know that in years gone by, particularly in recent years, seldom have we seen a divided report come from the Appropriations Committee, and I can't recall really of a budget document coming from the Appropriations Committee, that has been divided. So I would only point out to the members of this branch that because of the fact that there is a division within that committee the differences must be extreme in the sense that the members who did divide have had strong feelings relative to points that are not covered in this particular budget.

I notice in Report "B" — and I would call the attention of the Senate to page 7 to L. D. 2342 — and point out to the members of this Senate that under Human Services, Aid to Families with Dependent Children, there is \$4,188,400 that is being taken away and put into the general fund and redistributed throughout this budget document. I personally wish to address myself to that one particular item, and I think there are other members of the Senate who are sup-

porting Report "A" and will address themselves more specifically in terms of the Hay Report and perhaps other differences within the two documents.

I point out first, relative to that section under Human Services of approximately 4.2 million dollars that these savings came about through the rateable reduction program which was passed by this legislature during the last session. I would also state that it passed with the full support of both parties, urging the Commissioner of Human Services to do everything he could within his power to strike from the rolls of AFDC those recipients that did not belong there. And because of the action that has been taken and because of the way that the Division of Audit with the additional, I believe it was a total of 75 auditors, who went in to investigate AFDC, this remarkable savings came about.

I think if times in this country were good and that the economics was faring very well that there would be no problem here today, that the recommendations within Report "A" may possibly have been adopted. But I think it should be clear to the Senate, as we stated a couple of weeks ago relative to the bill that was reported out of the Performance Audit Committee, that all savings would be redistributed throughout AFDC grants. Well, today we have an opportunity of not taking the 4.6 million dollars that came about as a savings through the rateable reduction program and distributing it equally to AFDC clients, but we are asking that one million dollars be taken and be apportioned through AFDC grants to bring them above the 40 percent standard of need — excuse me, the Appropriations Chairman I know has eyes in the back of his head, and it is my understanding it is an 80 percent figure of the standards of need in 1969. And I think that million dollars, if I am not mistaken, if it was distributed equally or proportionally throughout the program, that it would bring them somewhere near 82 percent of the standard of need of 1969.

Because of the fact that nothing has been done with the AFDC payments through these savings, I would like to just bring to your attention exactly what has come about on local tax rates within your own communities. I think it is important because of the fact that nearly 30 percent today of all AFDC recipients are now being subsidized on the local level through general assistance, which means that in order for them to qualify for general assistance on the local level clearly points out that the state is not doing its job in the sense of raising the grant monies within the AFDC accounts and having it distributed.

I think it should be pointed out also the fact that for each million dollars that is appropriated by the state there is roughly 2.4 million dollars received by the state in matching monies from the federal government for the purpose of this program. Now, it seems to me if you took one million dollars, you would have a total package of 3.4 million dollars, and if you then distributed it throughout AFDC grants, that would then take them off the general assistance rolls on the local property tax, and therefore probably wouldn't reduce the local property tax much but certainly would hold it in check in that sense of general assistance.

There is one other area where I am really disturbed with the bill, but it is my understanding that the good Senator from Penobscot has an amendment to offer, and that is relative to the general revenue sharing account. If, in the wisdom of this Senate, it should reject Report "B" and accept Report "A", I also have the same amendment to be offered to Report "A". But, as I stated, I just wanted to touch briefly on a couple of the items, the differences mainly. I think everyone is in agreement with the figures under the University of Maine, but I think there is strong disagreement relative to both the AFDC program and, secondly, the implementation of the Hay Report.

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

Mr. CURTIS: Mr. President, I rise in support of the motion to accept the committee report, Report "B", although I think, like all good works, this one can be improved upon. As has been mentioned, I will have an amendment regarding one provision that has to do with the municipal revenue sharing, and I will have a second amendment regarding another provision, and that has to do with the funding for the University of Maine.

I think it would be incorrect to say that everybody here is in agreement that the amount provided in the bill is a satisfactory amount. I think that is an area that this legislature has an obligation to look at very hard. And after the bill is in its proper posture in second reader, I will have those two amendments.

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

Mrs. MERRILL: Mr. President, I would like to inquire to any member of the Appropriations Committee who may care to answer what the purpose and philosophy is behind subsection 4 of the bill as we find it on page 19, which sets up an implementation bonus on a one-time basis.

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

The Chair recognizes the Senator from Cumberland, Senator Huber.

Mr. HUBER: Mr. President, the bonus plan proposed on page 19 under subsection 4 of section D is a plan to provide a one-shot bonus for those employees from range 1 to range 10 who receive an annual increase in an amount less than the amount listed opposite each range. The purpose of this is to respond, again, to the real monetary needs of these lowest paid state employees, while still preserving the implementation of the Hay Plan in that these employees stay in the proper ranges so as not to impinge on the ranges ahead of them and therefore disturb the equity based in this plan.

In respect to the Hay Plan, I would like to say at this time that it has been referred to as a management tool, and it is indeed a management tool. I believe it is a management tool in the function of good management that employee satisfaction is an important management goal. In short, I see it as a management tool, not as management versus labor, but as management versus ill management or mismanagement. It does, even with the 10 percent limitation in the implementation as proposed in this report, it does put all state employees in the proper ranges indicated by the report. The 10 percent limitation means that an employee who would receive in full implementation of the pay plan, which would cost 14 million dollars which we simply do not have, the full implementation would cost 14 million dollars, and the implementation of the 10 percent brings us back to the 8.9 million dollars. An employee who receives more than 10 percent is brought back in these steps outlined in this bill so that he receives slightly less than 10 percent, and time will bring him up to the position that he would be in through full implementation of the Hay Report. So I think it is truly implementation of the Hay Report. This bonus plan is simply a one-time response to the recognized plight of the lowest paid state employees.

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

Mr. MERRILL: Mr. President and Members of the Senate: I would like to move indefinite postponement of Report "B" and its accompanying papers, and I would speak to that motion.

The PRESIDENT: The Senator has the floor.

Mr. MERRILL: Mr. President and Members of the Senate: I am a little at a loss as to exactly how to direct my remarks today because of the nature of this one-time bonus. Frankly, I am a little nonplused as to understand it. On the one hand we are being told that the Hay Report is fair and equitable and deserves implementation at this time, and on the other hand we are told that we have to put into effect a one-time special bonus to respond to the real monetary needs. Well, I suggest that any well thought out pay plan adopted by this legislature should have as its first goal to respond to the real monetary needs of the people who work for the state, and the fact that we have this one-time implementation plan, according to its description by the Chairman of the Appropriations Committee, the Senator from Cumberland, Senator Huber, that there has to be something special in there to respond to the real monetary needs, I suggest undermines the case to be made for the Hay Report at the outset.

I will make my remarks, address those remarks, to the Hay Report itself as I understand it, notwithstanding this one-time bonus, on the assumption that the state is going to continue past the next year and that we ought to look at this Hay Report in its long-term effect and not with its candy coating that is going to terminate in twelve months.

I have to say at the outset that I have not had the advantage of long study of the Hay Report. For some reason it has not been, to the best of my knowledge, distributed widely throughout these halls. It is not in its entirety on our desks. And if my information is correct, only two copies were sent to the legislature, sent to the persons who are the leaders of each of the respective houses. I might say, with that apology for not having made this study, it is to me almost reason enough not to implement the Hay Report, it not having been available to the people who are being asked to implement it. It is in essence being asked to vote for a bill that we haven't had a chance to read. But I have done my best to understand the thinking behind it and to try and understand how we can come out with the results that we do.

The results, as they have been presented to me, are that we find our custodial worker in the State of Maine, who is presently paid \$101.60, custodial worker I, being paid roughly \$100, is receiving under the Hay Report an additional dollar every week, or not quite an additional dollar, about 97 cents. I find that a laundry worker I receives a pay increase of one dollar, and so on throughout this report. The people at the bottom end of the pay scale are receiving very little, if any, raises. The people at the top of the pay scale are receiving higher pay increases.

Well, I object to this, first of all, in philosophy. I think it is not in keeping with the thinking of Maine people. As I have traveled around this state and talked to people about the problems that we face up here in regards to a pay increase for state employees, there is one thing I have heard time and time again from everybody, the conservative and liberal Republicans and Democrats that I have talked to outside of these halls, that at the very least you should do something for the lowest paid state employees. Well, this report does something, I guess. It provides a 2.43 increase for ranges 1 and 2, and a 5.02 increase for people at the top range, 20 and 21. So I think that this is totally counter to the thinking of well over 90 percent of Maine people in its approach.

So I sat out to try to find out how the Hay Report ended up in the position that it did, and I was informed by our office employment relations that three criteria were used to evaluate the various jobs that we ask our state employees to do. The first criterion was problem solving. The second was know-how

that was required for the job. And the third was accountability. Those are the three criteria, from what I understand from our own office of employment relations, that were used to come up with these various categories. Well, I suggest that that overlooks several criteria that should be considered.

In preparing my thinking on this subject over the weekend, I returned to a source that I thought might be conventional enough to convince even the most conservative members of this body, a treatise on economics that was published in 1776, coincidentally the bicentennial year, written by a gentleman by the name of Adam Smith — this is the real Adam Smith, and not the person that is using that name as a pseudonym and is publishing books today — who discussed the whole question of on what basis people should be paid in an economic system. And this discussion is on the part of the person who, of course, is the great spokesman for the free enterprise system as we know it. He listed as the number one criterion that should be taken into consideration in the payment of employees the following: first, the wages of labor vary with the ease or the hardship; the cleanliness or the dirtiness; the honorableness or the dishonorableness of the employment. And he goes on to spell out how this example would work in various areas, pointing out that a blacksmith who works longer than a person who works in a coal mine would probably get paid less because his work is not quite so dirty, not so dangerous, and is carried out in the daylight; a long discussion by Adam Smith of this very important criteria which basically is the desirableness of the job.

Interestingly, Adam Smith talks about the fact that the most fundamental of occupations, which is hunting and fishing, when a society becomes advanced, the most fundamental occupation becomes a pastime for many people and hunters and fishermen are usually the most poorly paid of those among us because they are doing a job which many members of society consider to be desirable. Desirability of the job, the honorableness of the job, the dirtiness of the job, this important criteria wasn't considered. It wasn't considered, as the Hay Report is described by its defenders, and when you look at the results of the Hay Report I think it is obvious.

Let's be honest with ourselves. The least desirable and the least satisfactory jobs that this state has to offer are the jobs for which we are going to continue to pay people about \$100 a week. Frankly, I think that is a disgrace. I think it is a disgrace that we would be asked to implement a report that is going to pay a person for forty hours or more work less money than we receive in expenses. If we spend a week up here, we received \$125. If we come up the night before, we receive \$150. These people are going to be asked to live on \$102 for doing the least desirable work.

Now, everyone here recognizes that there is a limited amount of money. Everyone here recognizes that we can't do, whatever the rhetoric is here, for our state employees what we would like to do, that we have a matter of having to set priorities. I would suggest that any setting of priorities in terms of a pay scale which gives a higher percentage, let alone a high dollar amount, to the people at the top than at the bottom is the exact reversal of what we should do.

Beyond that, beyond the fact that I disagree with the basic tenets of the Hay Report, that I take exception to the fact that the writers of the Hay Report don't even look for all the necessary criteria in evaluating what a person should be paid for a job, I think that the timing is wrong. We all know that the state is about to undertake the collective bargaining process. It is no secret to any of us that even if we don't implement the Hay Report in this session of the

legislature that the Hay Report will be used as a bargaining tool on the part of management, and in some cases I am sure on the part of labor. After that process has taken effect, I am sure that the legislature will be approached, as the law requires, for the necessary implementation of the results of those negotiations, and that will be the proper time for the consideration of the recommendations of the Hay Report.

I don't think that this report is going to languish on the shelf, no matter what we do. But I think that it is important in a time when everyone recognizes that we have limited resources, and at a time when everyone recognizes that our poorest paid state employees are paid less than what it takes just about everybody to live, that we should do everything we can to use the minimal resources that we can for those people, and not to hide behind a report which has been devised for management to deny those people everything that we can afford to give them within our very limited means. I hope the Senate would join me in indefinitely postponing this report, and with it the implementation of the Hay Report for the next fiscal year.

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

Mr. TROTZKY: Mr. President and Members of the Senate: The good Senator from Cumberland has talked about the Hay Report and talked about the implementation of 8.9 million dollars in raises for state employees in the State of Maine. I would like the State Senate to know what is going on in other states throughout the union. This comes from a government employee relations report:

Columbus, Ohio, 450 employees laid off; Trenton, New Jersey, 59 police officers laid off; Newark, New Jersey, 532 employees laid off; California, attempt to stop lay-offs for 1600 employees by obtaining court injunction failed, and 1600 also in the department of transportation may go July 1st; Michigan, 500 mental health employees face lay-offs; Ohio, 800 employees laid off last year; Connecticut, 500 employees laid off, with Governor Grasso saying another 3500 may have to go; New York State, 3000 employees being laid off by February 29th, with another possible 400 to be eliminated by attrition, and 10,000 to be laid off if the legislature does not adopt the tax program suggested by Governor Carey. These are just a few of the figures on what is going on with state employees throughout the United States.

I hope the Senate does not indefinitely postpone Report "B". I feel at this point it is the best thing that we can do, in light of the fact that we have a 6.5 million dollar shortage of revenues as of last February, and the Legislative Finance Office talks about a 7.4 million dollar shortage the first year and 6.3 million dollar shortage the second year. It is very easy to have the political philosophy of handing out the most money to the largest number of people, but I feel that this legislature, and especially this Senate, has to be fiscally responsible.

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

Mr. MERRILL: Mr. President and Members of the Senate: I thank the Senator from Penobscot, Senator Trotzky, for talking about responsibility. It is my responsibility as a representative of the employer, the person who is going to make the employer's decision, that prompts me to oppose the Hay Report. I don't know how anyone acting responsibly could do otherwise. Obviously, both of the recommendations, the recommendation made by the majority of the Appropriations Committee and the recommendation we are discussing here now made by the majority of the members of the Appropriations Committee from the Senate, fall far short of doing what we want to do because they are all

within those responsible constraints that the Senator from Penobscot, Senator Trotzky, is concerned with. The question is what we are going to do with the limited resources we have? That is the question before us.

I had the opportunity to look over some of the job activity questionnaires that were filled out in relation to the Hay Report, and I looked at the criteria that they considered in making their judgment about what people should be paid. And the criteria that were listed in the study that was made by the Hay Report, once again, dealt only with these three areas that I talked about. It didn't deal with the basic desirability of the job, which should be one of the key factors. And I think that none of the Hay Report dealt with the real needs of state employees just in terms of what it takes to live, and that is why we find this strange appendix hung onto this Hay Report, to sort of make it palatable to everyone on a one-time basis. Talk about the fact that the bill has no one-time revenue sources, it has a one-time sugar coating. Without it, I submit, the majority of the members of this Senate couldn't stand to vote for this so-called Hay Report Implementation Study.

I don't know what the most responsible thing to do is, but I think that anybody that asks somebody to work for them ought to do the very best job he can to give them enough money to live on. And within those limitations, that means to me giving as much money as we can to the poorest people who work for this state. It is as pure and as simple as that. I think the Hay Report is philosophically out of tune with that philosophy, and I urge the Senate to find it philosophically out of tune with their own thinking.

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

Mr. CONLEY: Mr. President and Members of the Senate: I listened to the words expressed by the good Senator from Penobscot, Senator Trotzky, relative to the financial and economic conditions of the state. I would point out first that we are working within figures that have been provided to us by the chief executive. Secondly, and I think perhaps even more important, is that the chief executive up to this very day has been expounding the fact that there is going to be an 8 million dollar surplus. Irrespective of what our Finance Office is telling us, the chief executive still is saying that there will be an 8 million dollar surplus come the end of the fiscal year.

What I can't understand, as far as the implementation of the Hay Report, is why the recommendations that were made under the Hay Report, dealing primarily with the management recommendations, that none of the recommendations were implemented into the governor's bill that dealt with the employees, such as improved benefits, hospitalization, and other things down the line. It just seems to me that this report is quite inconsistent with the thinking of working men and women throughout this state, and I hope it would be rejected.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, when the vote is taken on indefinite postponement, I would ask that it be taken by the "Yeas" and "Nays".

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 those Senators in favor of a roll call on the motion to indefinitely postpone 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 motion by the Senator from Cumberland, Senator Merrill, that Report "B" be indefinitely postponed. 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 E. Berry, Carbonneau, Cianchette, Clifford, Conley, Cyr, Danton, Graham, Johnston, Marcotte, Merrill, O'Leary, Pray.

NAYS: Senators R. Berry, Collins, Corson, Cummings, Curtis, Gahagan, Graffam, Greeley, Hichens, Huber, Jackson, Katz, McNally, Roberts, Speers, Thomas, Trotzky, Wyman.

ABSENT: Senator Reeves.

A roll call was had. 13 Senators having voted in the affirmative, and 18 Senators having voted in the negative, with one Senator being absent, the motion did not prevail.

Thereupon, the Ought to Pass in New Draft Report "B" of the Committee was Accepted and the Bill in New Draft Read Once.

Under suspension of the rules, the Bill in New Draft was Read a Second Time.

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

Senate Amendment "A", Filing No. S-521, was Read.

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

Mr. CURTIS: Mr. President, this is an amendment which was mentioned several times earlier. It is really, I believe, an amendment in support of existing tax reform policy which was adopted by this legislature several years ago.

What the amendment does, very briefly, is to limit the ceiling on the municipal revenue sharing fund to one year only, and provides that after that there would still be the 4 percent of the total income from sales and income taxes available for distribution to the municipalities. Currently Maine cities and towns receive 4 percent of the total sales and personal income tax revenues through the state municipal revenue sharing program. As these sales and income taxes produce increased or decreased revenues, the communities' share is 4 percent of whatever revenue is produced.

The proposal in Report "B", which we have just adopted, is to place a 9 million dollar ceiling on the amount of money that can be distributed. The effect of this action is twofold: First, it will reduce from 10.1 million to 9 million dollars the monies which communities would have received under the current law. More importantly is the fact that in future years communities will not share in the growth of the sales and income sources.

Now, Mr. President, the amendment which I present today does not affect the proposal made by the members of the Appropriations Committee who signed Report "B" for the forthcoming year. It would affect their proposal for future years. So that in subsequent years after that the cities and towns will have the benefit of receiving 4 percent of the sales and income tax revenues.

I think the legislature very intentionally a few years ago adopted this revenue sharing proposal, which actually preceded the federal revenue sharing proposal, and it did it intentionally so that municipalities would be able to receive a portion of the broader based taxes that are available to the state, and so that the drain and the input upon the property tax would be lessened, so that people who live on fixed incomes and low incomes but own property would be assisted by some of the methods that the state has for raising larger sums of money.

The final point I would like to make is that when the state municipal revenue sharing

program was enacted, the communities traded the excise tax revenues on the telephone company, and this is a revenue source with growth that the state is now receiving in the general fund. So it would be inappropriate, I think, and a change from our calculated attempt in past years to provide for tax reform to change to a more regressive form of taxation for the municipalities.

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

Mr. KATZ: Mr. President, it seems like a million years ago that we established state revenue sharing, and at that time I recall that one of our biggest problems was how conscientiously to dispose of our surplus dollars. Well, I suspect that the situation has changed just a little bit and we find ourselves committed to an open-end increased state revenue sharing. At the same time we had a rather open-ended education law too, and earlier this session the legislature said it simply could not be bound to open-ended accounts with a formula that bound future legislatures to an unknown level of spending.

I commend the Appropriations Committee for passing the torch along to future legislators and future appropriations committees in a more flexible manner.

In moving for the indefinite postponement of this amendment, I suggest that the question of a ceiling on municipal revenue sharing will of course be taken up next session, but I would ask this Senate to give our colleagues who follow us the maximum flexibility in dealing with the question of revenue sharing and all other tax structure.

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

Mr. CONLEY: Mr. President and Members of the Senate: I hope the torch that the Appropriations Committee brought forward is quickly extinguished. I personally feel that this is a commitment on general revenue sharing to the towns and cities throughout this state, and I would only remind the good Senator from Kennebec, Senator Katz, that it is tough enough for the pay-in communities throughout the state under the school subsidy law to rob them on one hand, and then after we have robbed them to reach over and rob them again with the other.

Now, it seems to me that if we are going to continue with the statutory language that is presently on the books, to take an appropriation act and cut the head of the chicken off to me is certainly a step backwards, and I hope that the Senate would vote against the motion to indefinitely postpone. And when the vote is taken, I would request the "Yeas" and "Nays".

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I would oppose the motion to indefinitely postpone this amendment. I certainly would concur with the statements of the Senator from Penobscot, Senator Curtis. Revenue sharing was a tax reform measure which was and remains consistent with true and legitimate tax reform because it allows, although not to a great extent, but it allows the municipalities to share modestly in the broader based more flexible taxes, and it is a slight movement away from the regressive property tax.

But it seems to me that what is most appealing about state revenue sharing is that, unlike educational funding which generates spending at the local level, the revenue sharing does not generate spending because the municipalities cannot spend the money. It is true tax reform and tax relief because the money received by the municipalities at the local level has to be applied against the tax rate directly, and there is no situation as you have in education funding of the more you spend the more you get. The municipalities, as I have said, are required to

apply it to the tax rate to reduce the property tax rate, and it seems to me that this is unique tax reform in that it does not generate more spending but rather does exactly what it was intended to do, holds down the increases in property tax.

So I think this is a very important amendment and I hope that you would vote against the motion to indefinitely postpone it and not break the faith with the municipalities which was made at the time of the introduction of municipal revenue sharing. Thank you, Mr. President.

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

Mr. MERRILL: Mr. President and Members of the Senate: There is one small element to this situation that I would like to address specifically, and that is the element of the inelasticity of the tax base that the towns depend upon. The property tax is the least able to compensate for the ups and downs of the economy, and in times of great inflation like these we find that the property tax is unable to take account of the inflation and to have that represented in the revenues that are taken in. That is one of the reasons that the Governor's Tax Policy Committee was very concerned with the fact that the towns depended so heavily on the property tax. That is one of the reasons that the Governor's Tax Policy Committee recommended a great increase in revenue sharing, and not that it be put at a fixed amount and thus not allow the towns to take advantage of the more elastic, more flexible taxation tools that the state has.

I think that the amendment is a good one and it should be accepted by those who are concerned with helping the towns adjust to the fact that they have such a limited tool for taxation.

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

Mr. HUBER: Mr. President and Members of the Senate: As has been said previously, I am sure that our tax structures will be reviewed in the next regular session of the legislature. It seems to me it makes comparatively little difference of whether we put the 9 million dollar limitation in on a permanent basis at this time or, as would be the case under this amendment, limit this limitation to one year. This will be reviewed, I am sure, in the next regular session.

This recommendation in Report "B" basically reflects the Appropriations Committee's view of automatic expansion mandated in any program, however, I think that if this is going to be the hang-up on acceptance of Report "B", the amendment is all right, from my standpoint anyway.

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

Mr. KATZ: Mr. President, considering the vocal and vigorous defense of the committee report by the Chairman of the Committee, I withdraw my motion.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now asks leave of the Senate to withdraw his motion to indefinitely postpone Senate Amendment "A". Is it the pleasure of the Senate to grant this leave?

It is a vote.

Is it the pleasure of the Senate to adopt Senate Amendment "A"?

The Chair recognizes the Senator from Aroostook, Senator Gahagan.

On motion by Mr. Gahagan of Aroostook, a division was had. 25 having voted in the affirmative, and four having voted in the negative, Senate Amendment "A" was Adopted.

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

Mr. MERRILL: Mr. President, I would like to ask the Chairman of the Appropriations Committee whether or not with this amendment on the bill it can still be said, as he said at the outset of this debate, that all the funding of continuous programs is done on a continuous basis.

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

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. Speers of Kennebec presented Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-523, was Read.

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

Mr. SPEERS: Mr. President and Members of the Senate: I present this amendment as the Senator from Kennebec, and in so doing I would like to state that basically I support the bill in its posture of acceptance of Report "B", but I do have some very personal misgivings as to the subject matter of this particular amendment.

The purport of this amendment is to grant an \$11 across-the-board pay increase to state employees and not to implement the Hay Report at the present time. This is in keeping, Mr. President, with the position of the majority party of this body, and I dare say a majority of the minority party of this body, that there should not be new taxes imposed upon the people of the State of Maine at this time.

I think it is very important to point out that with or without this amendment we are talking about the same amount of money as is being talked about with the acceptance of Report "B" of this bill. The question that we are faced with is a very basic one of how that same amount of money is going to be distributed to state employees. It is a question of the implementation of the Hay Study at this time or, on the other hand, not implementing at this point and using the same dollars to fund an across-the-board \$11 increase.

I have some very basic objections to the implementation of the Hay Report at this time. Some of them have been mentioned already, and I will be very brief in stating for the record what my objections are. Mr. President, I do not believe that the entire Hay Report is necessarily bad, the whole report, nor is it necessarily good. I think it is important to point out that the portion of the Hay Report that is included in Report "B" is not the implementation of the entire report, and there are very good reasons for that, and I do not object to those reasons. The reasons very simply are economic. But my principal objection to the implementation of the report at this time is that by implementing some of these items we are implementing items which should be and will be subject to collective bargaining. They will be negotiable items under the State Public Employees Collective Bargaining Law.

This report will not be rejected. The state will not have wasted its dollars in commissioning this report because both sides, of course, will be able to use this report when they sit down at the collective bargaining table to negotiate a contract. I feel that to implement the report at this time the legislature would be asked to be a super negotiating board. We would be asked at this point to be negotiating a contract for state employees. And that should be up to the collective bargaining process to negotiate the items in a contract rather than having the legislature adopt them at this point. Ultimately, Mr. President, it will of course be up to the legislature of the State of Maine to either accept or reject a contract that is negotiated by management and labor on behalf of management and the state employees, but I do not feel that we should be asked at this point to negotiate a contract for them item by item. I therefore offer this amendment and request support for it.

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

Mr. CONLEY: Mr. President and Members of the Senate: After listening to the explanation of the good majority floor leader, the Senator from Kennebec, Senator Speers, he sort of recited the feelings of Report "A" dealing with the state employees pay increase. It seems to me that the only real great difference that he has between Report "A" and Report "B", now that the good Senator has offered his amendment, is the category that apparently can't be resolved by any members of the majority party within this body, and that is the increased payments to AFDC recipients.

I would only call the Senate's attention again back to approximately two weeks ago when we debated the bill from the unanimous committee report from Performance Audit and how that was overwhelmingly rejected by the majority party of this Senate, and I would only want to paraphrase, or quote I should say, from the record as of that day as expressed by the majority floor leader, and I quote: "I think the good Senator from Cumberland, Senator Conley, has expressed very adequately the concern that all of us should feel for the basic needs of families with dependent children, but I submit, Mr. President, that it is not really the issue that is presented to us at the present time." Well, today is the time. Today is the time that we address ourselves and bring our attentions to the needy families of this state. And I cannot believe, nor can I comprehend or understand why the good majority floor leader would offer an amendment and the only difference in part of those areas that have been unable to be resolved by both parties is that in dealing with people with need, and it seems to me as a sham that this amendment would be offered at this time.

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

Mr. SPEERS: Mr. President and Members of the Senate: I am very sorry that the good minority floor leader feels the way that he does, that offering an amendment to provide an \$11 across-the-board increase rather than implementation of the Hay Report is a sham. It happens to be very strongly the way that I feel with regard to the funding for a state employee pay raise.

Mr. President, I point out that that is not necessarily the only difference between the two reports. There is a very basic difference with regard to the amount of money that is available to this body and to this legislature for expenditure over the next year of the biennium, and I think the good Senator from Cumberland, Senator Huber, has expressed very well the feeling on the part of those who have supported Report "B" with regard to the fiscal responsibilities involved in this state. I think it is a very basic difference of opinion as to whether or not the funds are necessarily available to expend. There are other differences, and I don't want to go down through the various methods of funding employed by Report "A". I note that there are some very serious differences; for example, the state museum is cut considerably and some other programs are cut considerably from their present level of funding. The basic difference is one of opinion as to whether or not the funds on a continuous basis are available as those who would support Report "A" would claim to be the case.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I would like to redirect a question and ask a new one. I posed a question earlier as to the matter of continuous funds, which has been raised again, as to whether or not all the continuing programs are funded by continuous funds with this Report "B" as presently before us as amended.

I would also urge the Senator from Kennebec, Senator Speers, to take the opportunity to be completely specific and detailed, for the benefit of all of us who have up until this time supported Report "A", as to the other differences which he thinks are so crucial that he could not vote for Report "A" but instead wanted to vote for Report "B" without the Hay Report.

The subject of the AFDC payments and restoring some of that money which has been taken away from AFDC recipients by the reforms that we have instituted — and I understand that at the time that was done there were certain promises made by members of the legislature that at least some of that would be returned to them — this area has been pinpointed, but the feelings of the Senator from Kennebec, Senator Speers, on it are still a little vague to me.

And the other differences which he feels are so crucial, frankly, I don't quite have a precise understanding of yet, and as an admirer of the Senator from Kennebec, Senator Speers' ability to speak exactly and precisely, and as someone more than willing to take the time to listen to a detailed explanation, I would ask him to make it now.

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

Is the Senate ready for the question? The pending question before the Senate is the adoption of Senate Amendment "B" to L. D. 2342. The Chair will order a division. Will all those Senators in favor of adopting Senate Amendment "B" to L. D. 2342 please rise in their places until counted.

The Chair recognizes the Senator from Cumberland, Senator Huber.

Mr. HUBER: Mr. President, I request when the vote be taken it be taken by the "Yeas" and "Nays".

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

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: It is quite clear to me that the so-called battle lines have been drawn. It is also obvious to me that we have not seen the last of this document. And I am going to ask the members of the minority party this afternoon to vote against the adoption of this amendment because I feel that there are going to be areas of compromise, and this will be one area we will want to discuss.

The PRESIDENT: The pending question before the Senate is the adoption of Senate Amendment "B" to L. D. 2342. A "Yes" vote will be in favor of adoption; a "Nay" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Hichens, Katz, McNally, Speers, Wyman.

NAYS: Senators Berry, E.; Berry, R.; Carboneau, Cianchette, Clifford, Collins, Conley, Corson, Cummings, Curtis, Cyr, Danton, Gahagan, Graffam, Graham, Greeley, Huber, Jackson, Johnston, Marcotte, Merrill, O'Leary, Pray, Roberts, Thomas, Trozky.

ABSENT: Senator Reeves.

A roll call was had. Five Senators having voted in the affirmative, and 26 Senators having voted in the negative, with one Senator being absent, the motion did not prevail.

Thereupon, on motion by Mr. Speers of Kennebec.

Recessed until the sound of the bell.

After Recess

Called to order by the President.

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

Mr. HUBER: Mr. President, would a reconsideration motion on the adoption of Senate Amendment "A" to L. D. 2342 be in order at this time?

The PRESIDENT: The Chair would answer in the affirmative.

Mr. HUBER: In that case, having voted on the prevailing side, I now move that we reconsider our action whereby we adopted Senate Amendment "A" to L. D. 2342, and would like to speak briefly to my motion.

The PRESIDENT: The Senator has the floor.

Mr. HUBER: Mr. President and Members of the Senate: I am sorry to admit that the steely eyes and sharp mind of my neighbor on the right, the Senator from Cumberland, Senator Merrill, are considerably sharper than my own in that when I said the adoption of this amendment made little or no difference because this would be considered at the next regular session I was wrong. It does make a difference, and I think this would compromise the fact that we are funding continuing programs only through continuous revenue sources, and as the 9 million dollar limitation on municipal revenue sharing producing 1.1 million is used to fund the payment to the teachers' retirement fund, and as we know the teachers' retirement fund will increase about 6 million dollars for the next biennium, I sincerely hope that the Senate will reconsider its action and ultimately indefinitely postpone Senate Amendment "A".

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

Mr. MERRILL: Mr. President, I suppose to some extent it is a matter of perspective, but I am the gentleman on the Senator from Cumberland, Senator Huber's left.

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

Mr. CONLEY: Mr. President, I am very delighted to see the wisdom of the good Chairman of the Appropriations Committee, and I wonder if he would just like to extend his reconsideration perhaps to that of Report "B".

The PRESIDENT: Is the Senate ready for the question? The question before the Senate is the motion by the Senator from Cumberland, Senator Huber, that the Senate reconsider its action whereby it adopted Senate Amendment "A" to L. D. 2342.

The Chair will order a division. Will all those Senators in favor of reconsideration please rise in their places until counted. All those opposed will rise in their places until counted.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

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

The PRESIDENT: A roll call has been requested. In order for 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 one-fifth having arisen, a roll call is ordered.

The pending question is the motion by the Senator from Cumberland, Senator Huber, that the Senate reconsider its action whereby it adopted Senate Amendment "A" to L. D. 2342.

A "Yes" vote will be in favor of reconsideration; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators R. Berry; Collins, Corson, Cummings, Gahagan, Graffam, Greeley, Hichens, Huber, Jackson, Katz, McNally,

Roberts, Speers, Thomas, Trotzky, Wyman.
 NAYS: Senators E. Berry; Carbonneau, Cianchette, Clifford, Conley, Curtis, Cyr, Danton, Graham, Johnston, Marcotte, Merrill, O'Leary, Pray.

ABSENT: Senator Reeves.

A roll call was had, 17 Senators having voted in the affirmative, and 14 Senators having voted in the negative, with one Senator being absent, the motion prevailed.

Mr. Katz of Kennebec then moved that Senate Amendment "A" be indefinitely postponed.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that Senate Amendment "A" be indefinitely postponed. Is this the pleasure of the Senate?

The Chair will order a division. Will all those Senators in favor of indefinite postponement of Senate Amendment "A" please rise in their places until counted. Those opposed will rise in their places until counted.

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

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

Mr. SPEERS: Mr. President, having voted on the prevailing side, I move the Senate reconsider its action and urge the Senate to vote against the motion.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves the Senate reconsider its action.

The Chair is advised by its parliamentarian that the motion of the Senator from Kennebec, Senator Speers, is not in order since this matter has already been reconsidered.

Is it now the pleasure of the Senate that this bill as amended be passed to be engrossed?

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, because it is now apparent to me that many members may have voted for this report initially in hopes that the amendment of the Senator from Kennebec, Senator Speers, would be adopted, and because it has not been adopted I think it would be valuable at this time to have a roll call on this question, and I ask that when the vote is taken it be taken by the "Yeas" and "Nays".

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.

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, since the question hasn't been posed yet, and I have another amendment which I would like to present, which has not yet been distributed but will be shortly, I wonder if it would be possible for some member of the Senate to move that this matter be tabled until a little later in the day.

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

Thereupon, Mr. Speers of Kennebec moved that the matter be tabled until later in today's session, and subsequently was granted leave to withdraw his motion.

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

Senate Amendment "C", Filing No. S-531, was Read.

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

Mr. CURTIS: Mr. President, this amendment does one of several things I suggested I would offer amendments to do earlier. I hope it is more successful than the last one but I am not sure that it will be. At any rate, this amendment recognizes the problem that exists at the University of Maine.

What the amendment does is increase two categories of appropriations which are made in

the bill under consideration. One category of appropriations provides for 285,000 additional dollars for the general activities of the University of Maine, to provide additional operating funds, increasing it from the \$500,000 that is in the bill.

The second category provides an additional \$100,000 for student aid, and provides that these funds shall not be used for any other purpose.

The financing for these two sections comes from the utilization of three sections which is in one of the other reports from the Appropriations Committee, and specifically that would be L. D. 2341, which was Report "A". And the specific sections involved are section 20, which would provide \$150,000; section 24, which would provide an additional \$150,000; and section 21, which provides an additional \$85,000. Those section numbers, of course, are renumbered in my amendment.

My concern in this entire amendment is for a very serious situation that is existing at the University of Maine, and that is primarily this: that the people who make up the quality of the institution at the university, the employees of the university, have not been receiving pay increases in the previous years. It has come to the point now where a number of these employees, the very top ones in their fields, are seeking employment elsewhere and are not having any trouble finding it. The number of people who are leaving the University of Maine at Orono campus, for example, has been increasing in very drastic proportions in recent years.

Last June I made a speech to this Senate in which I outlined some of the specific people who were departing. I won't go through that again, Mr. President, because I think the Senate may remember also a prediction that I made at that time, that if we didn't do something the situation was going to get worse. Well, I think that the situation is becoming worse. And as the top people in their fields, faculty from a variety of areas, are leaving for other campuses at substantially increased salaries, the University of Maine at Orono is getting a reputation for being a rateable institution. The next thing that will happen after that reputation, Mr. President, is that it will, unfortunately, go in the direction of getting a reputation as being a second class institution.

Now, the reason that my amendment is drawn as it is, it is to provide that there will be some additional dollars, more than what has been provided in the bill before us, for faculty salaries — and I am sure that would be the area in which the money would be used — and some additional dollars for student aid. The reason for the additional dollars for student aid is so that the trustees at the University of Maine will receive a message from the legislature, and the message is that we are willing to assist those students who are in need of financial help so that they can get an education, but we also recognize the necessity for the university using its other source of funds, primary source of funds, being tuition increases, so that it can pay its faculty and its staff a decent wage.

Now, Mr. President, last year at a time when so many people had been saying that we provided no increases at all for state employees, we did indeed provide pay increases for some state employees, and those who received merit pay increases received additional dollars last July, and have been, since then. There was no such similar increase at the University of Maine. All salaries at the university were in fact and indeed, frozen. So this amendment addresses the problems of the classified employees, it addresses the problems of the faculty at the university, and I hope it is adopted.

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

Mr. HUBER: Mr. President, it is with extreme regret that I rise to oppose the motion of the good Senator from Penobscot, Senator Curtis, in that we on the Appropriations Commission I am sure all recognize the needs of the university, as well as many other areas. However, this proposed increase, \$385,000 above what is proposed in Report "B", would use again this one-shot funding in terms of its section 21 on page 2 of the amendment in taking additional amounts from some funds which would be repayment of general fund loans.

This I think is for a continuing purpose, namely, the university, however, I think it is worth pointing out that the university by its own means is raising 2.8 million dollars by the \$100 across-the-board tuition increase, plus the increases of post-graduate schools and non-resident students. This, added to the amount provided in Report "B" would provide 3.5 million dollars for the university to face their 6.4 million dollar problem. However, I am afraid we are again getting into an area where we are using one-time funding for a continuing program.

I also have severe questions on the proposal on the top of page 2 in which interest generated from accounts, entitled "Other Special Revenue Funds, Enterprise Funds, and Intragovernmental Service Funds", be credited to the general fund of the state. I think each of these has to be very carefully examined. Take, for example, the veterans small business loan program, which is one of projects protected by this type of thing, this is an infant program, it has depended on the interest repayments, admittedly on an interest free general fund loan, but it has depended on these interest payments to keep its administrative costs down, along with the 1 percent fee that it charges banks. I think any proposal along this line must be very carefully examined to see that the reversion of interest payments to the general fund does not simply reappear as additional appropriation requests.

Again referring to the fund repayments, I see that there is a proposal increasing the recommendation in Report "B" by \$45,000 in repayment from the State Lottery fund. It is our understanding from the State Lottery that to get a new promotion launched they need the working capital that they have, except for the \$65,000 which would be taken under Report "B". If they don't have the amount of working capital that they require, they, I presume, will simply decrease their payments of the profits from the lottery to the general fund, and again this will decrease our revenues.

So, therefore, it is with regret that I move indefinite postponement of this Senate Amendment "C" to L. D. 2342.

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

Mr. CURTIS: Mr. President, earlier in the presentation regarding the appropriations bill a statement was made about another institution which is very similar in its organization and construction to the University of Maine, and that is the Maine Maritime Academy. The statement was made, I believe, that the dollars in the appropriations bill were sufficient to provide a salary increase of approximately equal magnitude as that provided to state employees. Now, Mr. President, the dollars provided in Report "B" in the L. D. as it is before us, without the amendment which I am proposing; or even with the amendment I am proposing, are not enough to even come close to what is necessary to provide equity to University of Maine employees, to Maine Maritime employees, and to State of Maine employees.

Now, it is a difficult situation to discuss because the university has the option of finding additional dollars through increases in tuition. I am sure that the Maine Maritime Academy is in

the same general situation, it can raise its tuition also. I do not fault the Maine Maritime Academy and I think we ought to support it. I just think that it is very, very difficult for those of us who represent people who are employees at the University of Maine to return to our constituencies and explain how we can make statements about providing dollars for institutions which are state supported so that employees at those institutions can have salary increases of approximately equal magnitude as those provided to state employees, and provide something in the line of an average of 6.4 per cent salary increases for state employees, and not provide the same kind of equity for university employees.

The employees at the University of Maine have been very patient and have been very understanding. I am not surprised that so many of them are leaving now. I think it is unfortunate, and I think that if we took some action, some additional action, to indicate in even a very small way that we were concerned with the equity of the situation for employees at the university and the Maine Maritime Academy and the State of Maine, that they would understand even more.

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

Mr. WYMAN: Mr. President and Members of the Senate: I would like to correct one misapprehension. If nothing is done, the salaries of the employees at the Maine Maritime Academy are below the salaries of the faculty at the University of Maine. And the Maine Maritime Academy had hoped to get up to the present level of the salaries at the University of Maine and they didn't ask for a further increase. So when we speak of increasing the salaries at the Maine Maritime Academy similar to those of the University of Maine, we are in error, because the salaries at the Maine Maritime Academy are below the salaries at the University of Maine.

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

Mr. HUBER: Mr. President and Members of the Senate: In response to the recent comments of the Senator from Penobscot, Senator Curtis, I would just like to again point out that through its own resources, namely, the recommended tuition increases, the university will raise 2.8 million dollars, we are providing them an additional \$500,000, or they have available through their own resources and the general fund appropriation 3.3 million dollars.

A salary increase comparable to that being proposed for state employees would cost 1.8 million dollars, which deducted from the 3.3 million dollars available would leave 1.7 million dollars to address increasing fuel costs, material costs and inflationary increases at the university.

I therefore feel that they do have access to funds through their own resources and through the proposed general fund appropriation, they do have access to funds which will provide a comparable increase, with some left over to meet their other pressing needs. I think it is the very strong feeling of the Appropriations Committee certainly that the \$500,000 proposed in Report "B" be in fact utilized for salary increases at the university.

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

Mr. CYR: Mr. President and Members of the Senate: I am in sympathy with the intent of the good Senator from Penobscot, Senator Curtis, however, if my figuring is correct here, we are going to need \$385,000 more, and I would like to have the Senator explain to us just where he intends to get it from.

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

Mr. CURTIS: Mr. President, the answer to

that question I thought I explained earlier. It is utilizing several sections which are included in L. D. 2341, which is Report "A" of the Appropriations Committee. One of those sections provides an additional \$150,000, another provides an additional \$150,000, and the third one provides an additional \$85,000. Those sections I detailed in my previous statement, and I would be glad to go over them again in even greater detail if somebody would like me to. I don't pretend to be an expert in financial matters, and I was utilizing some of the expertise from the Appropriations Committee.

I am sure that the Senate listened to the response from the Chairman of the Appropriations Committee as to whether or not he thought that those dollars were readily available or should be used. The only thing I think I would like to respond to is that on the lottery, I heard an announcement on the radio just today that the Lottery Commission had decided to cease one of its programs — I think it was the Great Outdoors game — and might pick that game up again in another eighteen months. I am not that familiar with the operation of the lottery, but it would seem to me that if they have enough money to go around changing their operations that we ought to be able to look to them for a repayment of some of the money that had been loaned to them.

Mr. President, when the vote is taken, I ask for the "Yeas" and the "Nays."

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.

One-fifth having arisen, a roll call is ordered. The pending question before the Senate is the motion by the Senator from Cumberland, Senator Huber, that Senate Amendment "C" be indefinitely postponed. 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, Clifford, Collins, Corson, Cummings, Danton, Gahagan, Graffam, Greeley, Huber, Jackson, Johnston, Katz, Marcotte, McNally, Pray, Roberts, Speers, Thomas, Trotzky, Wyman.

NAYS: Senators Berry, E.; Cianchette, Conley, Curtis, Cyr, Graham, Merrill.

ABSENT: Senators Hichens, O'Leary, Reeves.

A roll call was had. 22 Senators having voted in the affirmative, and seven Senators having voted in the negative, with three Senators being absent, the motion prevailed.

Mr. Collins of Knox then presented Senate Amendment "D" and moved its adoption.

Senate Amendment "D", Filing No. S-533, was Read.

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

Mr. COLLINS: Mr. President, the Appropriations Committee indicated recently that they were inviting committee chairmen to suggest areas where expenses might be reduced. These areas are not in my particular field but I feel that I know enough about each of them to know that they are not absolutely essential to good state government in the State of Maine. Some of them you have heard from me before about. I think we are familiar with all of them. I realize it is a modest gesture but I think it is important that some of us begin to work harder at chipping away at the things that we can do without.

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

Mr. HUBER: Mr. President, I again with extreme regret rise to move the indefinite postponement of this amendment. These items which are contained in L. D. 2225 were items from the supplemental budget and were in-

cluded in the Governor's recommendation for continued funding.

Although I agree with the good Senator from Knox, Senator Collins, that these programs deserve careful examination, I think we do have a procedure set up in the joint program between the legislature and the executive department, and given the difficulty of starting some of these programs and the work that many people have put into them, I think to summarily eliminate some and halve the funding on others would be rash at this time. I therefore hope you will go along with the indefinite postponement of this amendment.

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

Mr. MERRILL: Mr. President and Members of the Senate: I would just like to ask a question which grows out of complete ignorance in this particular area. In looking at the appropriations bill before us, I see that the Maine Commission for Women is spelled out in detail, beginning with "Commissioner established", and I wondered is this just a rewrite of the present commission or is this the creation of a new commission. And if so, is this being done at the will of the Governor?

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

The Chair recognizes the Senator from Cumberland, Senator Huber.

Mr. HUBER: Mr. President and Members of the Senate: The language concerning the Maine Commission on Women — and I hope I have the title right — is included from a bill that was before us and was before the Appropriations Committee. The funding for this commission, which takes the place of the Advisory Council on the Status of Women, has been incorporated into the appropriations bill. The funding formerly provided for the Advisory Council on the Status of Women is used to fund the commission created by this new language.

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

Mr. MERRILL: Mr. President and Members of the Senate: I know that this isn't new but it would be, I think, an improvement in the future if we used appropriations bills for that purpose, and let the legislature consider separately bills that make fundamental changes in the agencies in the state.

I know that some of the concerns of the Senator from Knox, Senator Collins, in regards to some of the things he is talking about here I think grew from the same procedure. I don't share with him his concern in some of these areas in terms of the results, but the procedure I think is an inadvisable one and I hope that it won't be followed in the future.

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

Mr. HUBER: Mr. President, I would just like to point out that the bill from whence this language came did have a full public hearing before the Appropriations Committee and I presume, as it is a printed bill, and I ignore the number at the moment, I presume it was considered by the legislature.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from Cumberland, Senator Huber, that Senate Amendment "D" be indefinitely postponed.

The Chair will order a division. Will all those Senators in favor of the indefinite postponement of Senate Amendment "D" please rise in their places until counted. Those opposed will rise in their places until counted.

A division was had. 16 having voted in the affirmative, and 10 having voted in the negative, the motion prevailed.

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 Cumberland, Senator Conley.

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

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 those Senators in favor of a roll call please rise in their places until counted.

One-fifth having arisen, a roll call is ordered. The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: The question is now clearly before us and it includes the Hay Report. I just want to point out to the members of the Senate and to anyone else who has witnessed this debate today that in the face of attack not only on the result of the Hay Report but on the methodology, and the suggestion that it isn't even consistent with the writings of the most conservative scholars of economics, the sense of the Hay Report has not been forthcoming. This seems to be a report that people would rather not talk about, and I think that they have good reason.

I think that the report is an outrage in the fact that it fails to recognize what the most conservative economic scholar in the history of our country, writing in the year of the birth of this country, laid down as the No. 1 criteria for determining what a person gets paid, and that is whether or not the job he is doing is desirable or undesirable. And the people that we are talking about here are people who are doing very undesirable work. It is not much fun pushing a broom around these halls cleaning up the dirt that the legislature leaves behind, and what the Hay Report gives them is not much better than that.

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

Mr. SPEERS: Mr. President, I am very sorry that those Senators that feel so adamantly opposed to the Hay Report did not take advantage of the opportunity that was presented several moments ago to vote for an amendment which would remove the Hay Report from this particular report of the Appropriations Committee. As the good minority leader of this body mentioned, however, I dare say that we have not seen the last of this particular issue and we have not seen the last of this particular bill. It will be returned to us in all probability for further consideration.

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

Mr. CONLEY: Mr. President, I would urge the members of this Senate to vote against engrossment. I am sure it is going to be engrossed, but it is my hope that wisdom will prevail down in the other branch.

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

Mr. GAHAGAN: Mr. President and Members of the Senate: I find it ironic, as we sit here this afternoon deciding who will get whatever scarce resources are left, to recall the education funding debate and the subsequent tax increase to fund education when there were other needs so great in state government, yet we did not as a body choose to set priorities then and consider just one tax increase, if necessary, to fund programs on a priority basis. Education got 18 million. It is real tough on state employees, mental health and corrections, and even AFDC. What a disappointment we didn't help them when we had the opportunity.

Report "B" may not provide satisfaction for everyone who has a need, but it does provide us with the opportunity to vote for a fair measure

which enables us to live within our current income, no new programs, and no program expansion.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the passage to be engrossed of L. D. 2342. A "Yes" vote will be in favor of passage to be engrossed; a "Nay" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators R. Berry, Collins, Corson, Cummings, Curtis, Gahagan, Graffam, Greeley, Huber, Jackson, McNally, Roberts, Speers, Thomas, Trotzky, Wyman.

NAYS: Senators E. Berry, Carbonneau, Cianchette, Clifford, Conley, Cyr, Danton, Graham, Johnston, Katz, Marcotte, Merrill, Pray.

ABSENT: Senators Hichens, O'Leary, Reeves.

A roll call was had. 16 Senators having voted in the affirmative, and 13 Senators having voted in the negative, with three Senators being absent, the Bill was Passed to be Engrossed.

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

Mr. SPEERS: Mr. President, having voted with the majority, I move the Senate reconsider its action whereby this bill was passed to be engrossed and urge the Senate to vote against the motion.

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

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

Sent down for concurrence.

The PRESIDENT: The Chair will ask the Sergeant-at-Arms to escort the Senator from Cumberland, Senator Berry, to the rostrum where he may preside as President pro tem for the remainder of the afternoon. The Chair would like to thank the Senator in advance.

Thereupon, the Sergeant-at-Arms escorted Senator Berry to the rostrum where he assumed the duties of President pro tem, and the President retired from the Senate Chambers.

On motion by Mr. Conley of Cumberland, and under suspension of the rules, L. D. 2342 was sent forthwith to the House for concurrence.

Papers from the House

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

Joint Order

ORDERED, the Senate concurring, that the following be recalled from the Governor's Office to the House: Bill "An Act Relating to the Formation of Political Parties and to Political Designations" (H. P. 1960, L. D. 2140) (H. P. 2288)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

The President pro tem laid before the Senate the matter tabled earlier in today's session by Mr. Graffam of Cumberland:

Bill, "An Act to Revise the Liquor Laws of Maine" (H. P. 2024) (L. D. 2199)

Pending — Passage to be Engrossed.

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

The President pro tem laid before the Senate the matter tabled earlier in today's session by Mr. Conley of Cumberland:

Bill, "An Act Redistributing the Powers of the Executive Council" (H. P. 1997) (L. D. 2197)

Pending — Adoption of Committee Amendment "A".

Mr. Cianchette of Somerset then presented Senate Amendment "B" to Committee Amendment "A" and moved its Adoption.

Senate Amendment "B", Filing No. S-530, to Committee Amendment "A" was Read.

The PRESIDENT pro tem: The Chair recognizes that Senator.

Mr. CIANCHETTE: Mr. President and Members of the Senate: This amendment changes the bill before you and says that the approximately ten commissioners under the bill who serve at the governor's will and pleasure shall instead serve a term coterminous with the governor and provides that the governor may remove the commissioner for cause.

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

Mr. CURTIS: Mr. President, there are a number of amendments to this rather important bill and, in an attempt to provide some order for the Senate to understand what might be transpiring, earlier in the day I distributed a two-page memorandum regarding amendments to L. D. 2197. If the Senators might be interested in following this debate rather closely, I think the memorandum might help. If somebody doesn't have a copy of the memorandum, I have some additional ones.

On page 2, under "Other Senate Amendments Expected", you will find a brief description of the amendment which was just offered under Filing No. S-530. The State Government Committee considered this proposal very carefully — as a matter of fact, we considered it for many months, as to whether or not there should be any restrictions on the governor when he may decide to fire one of his department heads. It was the determination of the committee in its final report that there should be no restrictions upon the governor. There were some members of the committee, myself initially, who felt that we were taking a very extensive step in one direction towards greater gubernatorial power and we ought to do so very carefully if we give the governor the power to fire his department heads.

In recent years we have seen the evolution of state government, from the point where department heads were pretty independent people who served terms of offices for terms of years which frequently overlapped the term of office of the governor, to the change in the last few years in which almost all department heads, I believe all now, serve terms coterminous with the chief executive, terms, in other words, of four years duration from the time the governor appoints them to the end of the gubernatorial term.

The amendment that we have before us now I think is not an unreasonable amendment. I do, however, oppose it, and I do this for several reasons. First of all, it seems to me that if we are to expect the chief executive to carry out the duties that we give to him to run the executive branch of state government, we need to give him the authority to exercise jurisdiction over his major department heads, the people who serve in his cabinet.

Secondly, we could not find any good solid description of what "cause" meant in Maine law. As a consequence, the adoption of this amendment would almost certainly at some point in the future lead to a crisis of some magnitude, because a commissioner who was fired by the chief executive would almost certainly appeal that firing and indicate that the reasons given would not be sufficient to fire him for cause. In the interim, while a decision was being made by a court, that department would be leaderless.

So, for these reasons, I move the indefinite

postponement of Senate Amendment "B" to Committee Amendment "A".

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

Mr. MERRILL: Mr. President and Members of the Senate: I would like to say that I am in favor of the indefinite postponement of this measure, but not because I have trouble with the definition of "cause". I think the word is of sufficient clarity so the courts will be able to know, if we did accept this amendment, what the intent of the legislature was. And that intention seems to me to be pretty clear in this amendment, which is essentially saying to the governor that he cannot remove these people for a pure political reason, but that it has to do with the performance of his office separate from the question of policy and politics.

My reason for opposing the amendment then is because I think that the governor ought to be able to remove people for the pure purpose of political disagreement with a commissioner. I think we ask the governor to run a vast bureaucracy, and it is very difficult, I think, with the bureaucracy as big and as entrenched as it is, for the governor to get control of it. Just last week there was a difference of opinion between myself and the majority of this Senate as to whether or not the governor was being given what I thought was an extraordinary expansion of his legislative powers, and I opposed that. This is simply a small expansion, which is really a continuation of the trend that has been referred to by the Senator from Penobscot, Senator Curtis, to give the governor new and growing power over the executive branch, and I am in favor of giving him that power and let the people temper it as they will.

However, I must say in defense of the amendment that I think the amendment is perfectly drawn by the Senator from Somerset, Senator Cianchette, to accomplish his purpose and, if adopted by the Senate, I think the courts would have a pretty clear understanding of what our purpose was in doing so.

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

Mr. CIANCHETTE: Mr. President, I will be brief. First, I want to make it very clear that we are not addressing the problems that we may be facing with our current governor. When and if this bill becomes law, I am sure that the present governor won't be very concerned about this with his own actions. That is down the road a piece. But I think it is time to say whoa on giving the governor undue powers, and we have, as you have heard, given the office of governor much more authority and power, which I approve of. But I think there is a limit and I think we better try some of those things and see how they work first.

You know, the argument is that if you were running a business you would want the authority to hire and fire your key people, and I say that is right. If I were running a business and I fired a person, and it was detrimental to my business, then it is detrimental to me. If the governor fires a commissioner, then it is detrimental not to the governor but to the State of Maine. And there lies the difference between running a business and running the government of the state.

Under this bill, the governor appoints his man with a coterminous appointment. It is confirmed by this law, legislative committees and the Senate. I guess it is. The governor by nature is a very persuasive type of person, and once he has appointed a commissioner, I believe in most all cases that he is going to be able to convince the commissioner to see things, partially at least, his way. Therefore, the governor who is working well certainly doesn't need this law, and on the other hand, if a governor should slip

within the four years and not be the man that the people thought they had elected, they wouldn't be altogether in the soup; they would still have a group of commissioners that had been appointed and confirmed to help run the state, and I say it is little enough protection for the people of the State of Maine. A good governor doesn't need this law, and the people need the law if we don't have a good governor. So I say let's go a little bit slower and not put all our eggs in one basket at one time, and pass this amendment.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I would support the motion to postpone this amendment for the reason, it seems to me, that the biggest problem we face in government today at both the federal and at the state level is bureaucratic lethargy and bureaucratic inaction in carrying out the will of the people. It seems to me that the most resistance to carrying out the will of the people has traditionally, especially in recent years as government has grown, has come from the bureaucracy in the executive branch, and I think the State Government Committee wisely allowed the governor to remove the top people at his pleasure. It seems to me it makes sense that the top people who are appointed by the governor and who go through initially the confirmation process should be removed at the governor's pleasure. Otherwise, bureaucratic lethargy is going to win again and the governor is going to have less power to carry out the will of the people as opposed to the will of the bureaucracy.

So I hope that you would support the motion of the Senator from Penobscot, Senator Curtis, and go along with the State Government Committee and oppose this amendment of Senator Cianchette's. Thank you, Mr. President.

The PRESIDENT pro tem: The question before the Senate is the motion of the Senator from Penobscot, Senator Curtis, that Senate Amendment "B" to Committee Amendment "A" be indefinitely postponed. All those in favor of indefinite postponement will say "Yes"; those opposed will say "No".

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

Thereupon, on motion by Mr. Speers of Kennebec, a division was had. 17 having voted in the affirmative, and six having voted in the negative, Senate Amendment "B" to Committee Amendment "A" was Indefinitely Postponed.

Committee Amendment "A", as Amended by Senate Amendment "A" Thereto, was Adopted. House Amendment "A" was Read.

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

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, I rise very briefly to explain that I think this is a logical amendment. It provides that a position, two positions really, which have substantial power would be subject to confirmation. And although the committee tried very diligently to restrict the number of positions which would require confirmation, it would seem to me if we are going to have the Superintendent of Banking subject to confirmation that the Superintendents of Insurance and Consumer Protection ought to be in the same boat.

The PRESIDENT pro tem: Is the Senate ready for the question? Is it now the pleasure of the Senate that House Amendment "A" to L. D. 2197 be adopted?

It is a vote.

House Amendment "B" was Read.

The PRESIDENT pro tem: The Chair

recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, I move indefinite postponement of House Amendment "B", for the reasons that should be fairly clear. I think, from looking at the memorandum which I distributed. In this instance, the Committee on Aging and the Human Services Council have 15 members and 17 members respectively, and I think that these committees, although important, are not of sufficient import to require the attention of a committee of the legislature and the full attention of the Senate before a position is determined and an appointment is made.

The PRESIDENT pro tem: The question before the Senate is the motion of the Senator from Penobscot, Senator Curtis, that House Amendment "B" to L. D. 2197 be indefinitely postponed. Is this the pleasure of the Senate?

It is a vote.

House Amendment "C" was Read and Adopted in concurrence, and House Amendment "E" was Read.

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

Mr. CURTIS: Mr. President, with a considerable amount of reluctance, I am going to move indefinite postponement of House Amendment "E". I think that this is one of those proposals in one of those areas that the State Government Committee gave consideration to and that there is some value to considering confirmation of the public members of the trustees of the Retirement System. We decided against this primarily because we felt that the existing statutory restrictions were sufficient to provide protection for this fund and that a majority of the members are already provided for under other provisions of the statute and they serve ex-officio.

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

Mr. KATZ: Mr. President, the committee has done such a great job so far that I hesitate to raise a shadow on their performance, but the state retirement fund is something very, very special. We put it into the Maine Constitution, and any time we even look at it, it makes people very nervous all over the state. And I wonder, because it is so special, and because of the size of the fund, which I understand is approaching 200 million dollars, or getting up there pretty quickly, whether or not the opposition of the committee is not a modest opposition and whether justice would not be served were we to defeat the motion to indefinitely postpone.

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

Mr. CURTIS: Mr. President, the opposition is indeed modest and, with the leave of the Senate, I will withdraw my motion.

The PRESIDENT pro tem: The Chair recognizes the Senator from Aroostook, Senator Gahagan.

Mr. GAHAGAN: Mr. President and Members of the Senate: I also would like to take this opportunity to encourage you to support House Amendment "E". I take this opportunity, as a past member of the Committee on Veterans and Retirement in the 106th Legislature, to officially suggest to the trustees of the State Retirement System and perhaps to the executive and legislative branches that we might consider that 200 million dollar fund which is in the State Retirement System as a possible source of revenue for the State of Maine itself.

I think it would be quite appropriate for the trustees to consider floating secondary issues against that Retirement System as a means to lend money to the State of Maine. The money presently is invested in Boston and New York banks by money managers who work for the

Retirement System. I am in no way casting any doubt on their ability to invest money, but I am saying that we could avoid many of the fees that are paid in money management firms, we could avoid having to deposit this great amount of money in out-of-state banks.

I would suggest, Mr. President and Members of the Senate, that it would be appropriate for perhaps the Veterans and Retirement Committee of the Legislature or the Retirement System to consider this suggestion that I offer today. The state might be able to benefit in borrowing money from the State Retirement System and paying them a fair rate of return for their investment in the State of Maine.

The PRESIDENT pro tem: is there objection to the Senator from Penobscot, Senator Curtis, withdrawing his motion to indefinitely postpone House Amendment "E"?

The Chair hears no objection.

House Amendment "E" was Adopted in concurrence, and House Amendment "F" was Read.

Mr. Merrill of Cumberland then presented Senate Amendment "A" to House Amendment "F" and moved its Adoption.

Senate Amendment "A"; Filing No. S-518, to House Amendment "F" was Read.

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

Mr. CURTIS: Mr. President, I hope that the pending motion is adopted because the amendment that is offered by the Senator from Cumberland, Senator Merrill, corrects some errors in an amendment that was sent to us from the other body, and then I will move to indefinitely postpone the amendment from the other body and explain the reason.

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

The motion prevailed.

The PRESIDENT pro tem: Is it now the pleasure of the Senate that House Amendment "F", as amended by Senate Amendment "A", be adopted?

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, this is an amendment which provides that an additional 22 positions would be subject to confirmation. Because of the number of positions and the studious attempt by the committee to reduce the some 650 positions that are now subject to confirmation by the executive council down to the approximately 150 which we reached, I am going to move that this amendment be indefinitely postponed. I think that the position of the Criminal Justice Planning and Assistance Agency and the Board of Trustees of the Criminal Justice Academy, given the existing statutory restrictions on those positions, they are sufficient to provide protection to the public and the people of the state.

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

Mr. MERRILL: Mr. President and Members of the Senate: I urge the Senate to defeat the motion to indefinitely postpone and ask that there be a division when the vote is taken.

I would like to point out that this amendment, House Amendment "F" now as amended by Senate Amendment "A", deals with two separate boards. One is the board that spends the monies that come from the federal government in the form of what is commonly referred to as LEAA, and this board expends many millions of dollars. The only legislature, in essence, and the executive in charge of this expenditure is this board, and in the expenditure of these monies important policy decisions are made.

It is no secret to any of us who are familiar

with what is going on in county and local government, for example, that the expenditures of these LEAA monies have created the need for local towns to make great new additional expenditures where, for example, these policemen have been funded for one or two years with LEAA money and then the towns have had to pick up the difference. It is also I think probably well known to the members of the Senate that much of the LEAA money is used to pay for positions within the state's own departments, positions in the Department of Mental Health and Corrections, for example, many of which are funded with LEAA monies. I suggest that, for the very reasons that were raised by the Senator from Cumberland, Senator Jackson, in discussing another bill last week, if there is one area where one man can have control over a heck of a lot of money, it is this specific one. The other area that is dealt with by House Amendment "F", as amended by Senate Amendment "A", is the board of trustees of the Criminal Justice Academy. Now, as I understand the state of the law as it would be amended if we follow all the suggestions of the State Government Committee, the University of Maine trustees will be subject to approval, the trustees of the Maine Maritime Academy will be subject to approval, but the trustees of the Criminal Justice Academy will not. Well, I suggest that it is as important for the legislature to keep its eye on the Criminal Justice Academy as it is these others, at least in the sense that important public policy is really being implemented here. When we train our policemen and tell them the guidelines and show them the expectations of society as they perform their duties of the 20 or 25 years that they serve the state, this is a very important function, and I think that it is important for the legislature to make sure and see to it that the people that sit on this board and administrate this school are the types of people who have the types of moral background necessary to do the job and, with this sort of a trustee position, that they represent the sort of philosophy that we want our policemen to be imbued with in their early years.

So these are important. They are not trivial. I commend the State Government Committee for taking 650 positions and reducing them to 150, and I submit to the Senate that to make that 172 will not be any great burden to the legislature and may just head off potential problems.

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

Mr. SPEERS: Mr. President and Members of the Senate: I rise to join the good Senator from Cumberland, Senator Merrill, in opposition to the pending motion. During my first term as a member of this body I had the privilege of serving on the Committee on Judiciary and, because of that, had the further privilege of serving as a member of the board of the LEAA. Though that experience, I think I found that it was very important and extremely useful to both the legislature and LEAA to have the liaison between the two branches, between that body and the legislature, primarily because that body is of course considering on a continuing basis the extension of grants or the making of grants which could indeed involve state funds in future years. And it is very helpful for that body to realize though the member of the legislature serving on that board that the legislature does have a very real concern in the continuing of grants, and also very helpful to the legislature, in determining whether or not to accept the continuing funding of grants that have been made by LEAA, as to whether or not those grants were indeed necessary and the reasons behind them. So I think it is very important for the liaison to be there.

Now, there did occur some constitutional

problems with the fact that a member of the legislature served on an executive board, and I think by designating these members as ex-officio members that that constitutional problem will be resolved. So I urgently hope that the Senate will defeat the pending motion to indefinitely postpone House Amendment "F".

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

Mr. CURTIS: Mr. President, I think it would be helpful because it is not entirely clear from the bill, since all the language is not printed there, to read what are the jobs in the legislative description in the statute for the directors of the Criminal Justice Planning and Assistance Agency. And I would appreciate it while I read these several paragraphs if you would think about whether or not we desire to burden the Judiciary Committee of this legislature and the full Senate in what will amount to every two years with the job of confirming the people who are appointed to these positions.

Section 3351 of Title 5. "Directors. The agency" — and here I am describing the Criminal Justice Planning and Assistance Agency — "shall have no less than 12 nor more than 30 members appointed by the Governor, including ex-officio the Attorney General, the Chief of the Maine State Police, the Director of the Bureau of Corrections of the Department of Mental Health and Corrections, the State Planning Director, and the Chief Medical Examiner. The remaining members shall include representatives of units of local government, including elected officials, appointed executives and law enforcement officers, sheriffs, representatives of groups dealing with juvenile delinquency, representatives of the community generally. Agency membership shall reflect to the degree possible a reasonable geographical and urban-rural balance. Directors shall serve a term of two years. Directors shall receive their actual expenses incurred in the performance of their official duties."

Under the next section of Meetings, "Directors shall meet at the call of the Governor, the chairman, the executive director upon petition of any six members. Directors shall have the power to set policy and promulgate rules for the operation and administration of the agency consistent with the applicable federal legislation."

I think it is important that we consider the substance and the significance of each of these agencies under consideration, and I would suggest that we will be burdening the Judiciary Committee and this Senate unnecessarily if we require confirmation for those positions. I would also like to point out that presently under this statute there is no confirmation.

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

Mr. CLIFFORD: Mr. President, I just want to make one point. It seems to me that if the process of confirmation is going to work and going to be meaningful that it should not be written into the law that it be used too often. It seems to me that we ought to be subjecting this process, which is rather a complicated process of the legislative committee hearing the testimony, making a recommendation, and then the Maine Senate voting on these positions, it seems to me that we ought to be careful in the amount of positions we put into this confirmation process, because if we put too much in I think it is going to take away from the meaning of the important positions, such as the commissioners, and I really think that it is important to have this confirmation process meaningful for the important positions.

I would agree with the Senator from Penobscot, Senator Curtis, that these positions are so many in number, and for the most part they are

taken from categories named in the statutes, that if we extended this thinking to its logical conclusion, we might as well go back to close to 650 confirmations. Thank you, Mr. President.

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

Mr. SPEERS: Mr. President and Members of the Senate: I thank the Senate for indulging. I think that I would revise my thinking on this particular item. My basic concern is that there be a member of the legislature — and in the past it has been the chairman of the Joint Standing Committee on Judiciary or his designee, as is the case in House Amendment "F" — my basic concern is that there be that member appointed to the board of the Criminal Justice Planning Agency. I don't believe, however, that it would be necessary for all 22 of these individuals to have their names submitted to the legislative process of confirmation. I do agree that that does seem to be somewhat burdensome.

Therefore, I would join with the Senator from Penobscot, Senator Curtis, in supporting his motion to indefinitely postpone this amendment. And I would hope that at some point in the future, either in another bill — I don't want to hold this bill up — but at some point in the future either in this legislature or in a following session that there could be provided that the chairman of the Joint Standing Committee on Judiciary be also a member of that board.

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

Mr. MERRILL: Mr. President and Members of the Senate: I would just point out that many of the people read off in that list don't have to be approved by this amendment. The amendment would have those who are appointed from the public, and not those who serve by virtue of their position, approved. And I suppose where we draw the line as to what is important enough to be confirmed is an important question, as suggested by the Senator from Androscoggin, Senator Clifford. I just think that to allow the chief executive to appoint a board, without confirmation by the Senate or by the legislature, that by itself expends 3.4 million dollars, many of them on local and state efforts that are going to have future consequences to the state and to the localities, is asking for trouble in the future. 3.4 million dollars is a lot of money. We have been arguing about a lot less here this afternoon for a considerable amount of time, and yet we are told the legislature can't deem to take a few hours to look into the people that are going to expend all this money unchecked. And as the governor so properly reminds us from time to time, federal money is taxpayers' money just like state money.

As far as the removal of confirmation of the people who run the Criminal Justice Academy, I don't think that that is a trivial matter. I really don't. As a matter of fact, I am as concerned about what is taught at the Criminal Justice Academy as I am at what is taught at the University of Maine. The number of people that go there are fewer, but the effect of what they learn there on our lives is as great. And I am concerned that the philosophy of the governor would be the only thing making up the selection of these people, even though it might be that that philosophy on this matter would be entirely out of sync with what the basic members of Maine citizenry feel. As a matter of fact, I understand that one of the things that prompted this amendment originally was concern by policemen about what might be offered at the Criminal Academy and that there be some check on this, because they recognize what a terrific power this is when you take people who essentially are complete novices in the area of police work and you give them the education on

which they are going to base their career as police officers.

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

Mr. CURTIS: Mr. President, I would like to just respond to one comment made by the Senator from Cumberland, Senator Merrill, regarding the number of people who are serving ex-officio on the Criminal Justice Planning and Assistance Agency. If the amendment is adopted, there would be six people who would serve ex-officio. There would be the Attorney General, the Chief of the Maine State Police, the Director of the Bureau of Corrections of the Department of Mental Health and Corrections, the State Planning Director, the Chief Medical Examiner, and the Chairman of the Judiciary Committee. Of the total number of people who might be appointed to this board, namely 30, six would be ex-officio. That would leave the prospect of 24 other people who would be subject to confirmation every two years.

The PRESIDENT pro tem: Is the Senate ready for the question? The question before the Senate is the motion of the Senator from Penobscot, Senator Curtis, that House Amendment "F", as amended by Senate Amendment "A", be indefinitely postponed. All those in favor of indefinite postponement will say "Yes"; those opposed "No".

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I would remind the Chair that I have already requested a division.

The PRESIDENT pro tem: The Senator is correct. A division has been requested. The question before the Senate is the motion of the Senator from Penobscot, Senator Curtis, that House Amendment "F", as amended by Senator Amendment "A", be indefinitely postponed. Those in favor of indefinite postponement will rise and remain standing until counted. Those opposed?

A division was had. 16 having voted in the affirmative, and seven having voted in the negative, the motion prevailed.

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

Mr. CLIFFORD: Mr. President, I have an amendment to offer but I don't want to offer it out of order. I noticed there was one that had a prior number, but I have an amendment to the bill itself, if it is in order to offer it now.

The PRESIDENT pro tem: It is not in order, if the Senator would defer.

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

Mr. Clifford of Androscoggin then presented Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-524, was Read.

The PRESIDENT pro tem: The Chair recognizes that Senator.

Mr. CLIFFORD: Mr. President and Members of the Senate: We had a debate earlier today in which we rejected a provision which would have allowed the governor to remove those commissioners only for cause, so now the bill allows the governor to remove at his pleasure these positions.

Now, one of those positions happens to be the Commissioner of Environmental Protection. The purpose of this amendment is to allow that commissioner, who is presently a member of the Board of Environmental Protection and a voting member, or at least a voting member in case of a tie, to make him a non-voting member only. And this is because, it seems to me, of some concern that if the governor has the power to remove that commissioner without cause, it seems to me that to allow him to re-

main a voting member on a board as important as the Board of Environmental Protection is somewhat dangerous, and I think that we ought to keep him on the board but remove his power to vote so that he will not be subjected to the kinds of pressure I think, that a governor could subject him to in a vote on a small board such as the Board of Environmental Protection. So I hope that you would adopt Senate Amendment "B". Thank you, Mr. President.

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

Mr. CURTIS: Mr. President, the State Government Committee considered this matter at some length. I think that perhaps the amendment which has been offered here provides a solution that we should have recommended and, for that reason, I support it. There was some disagreement in the committee and we may hear further about this in the future.

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

Mr. TROTZKY: Mr. President and Members of the Senate: I see a problem with this amendment in that there are ten members on the Board of Environmental Protection, I believe, and that means there can be a tie 5-5, and who is going to break that tie?

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

Mr. CLIFFORD: Mr. President, I don't think that is any more of a problem than we have in the Maine Senate when there are 32 members. If there is a tie vote, whatever, the motion would be would not prevail.

The PRESIDENT pro tem: The Question before the Senate is the adoption of Senate Amendment "B". Is it now the pleasure of the Senate to adopt Senate Amendment "B"?

The motion prevailed.

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

Senate Amendment "C", Filing No. S-526, was Read.

The PRESIDENT pro tem: The Chair recognizes that same Senator.

Mr. MERRILL: Mr. President and Members of the Senate: With the doing away with the executive council, there is some recognition that has to be given to the governor's powers to temporarily curtail allotments. Now, what this amendment does is that it recognizes that with the loss of the executive council there is probably no appropriate body to be a before-the-fact check on the governor's power in this area, but it does provide — in the first paragraph it really pretty much follows the appropriations bill that we passed, that if there is a shortfall that the commissioner of finance can alert the governor to that. At this point the governor, as the bill is presently drafted, is to alert the president of the senate, the speaker of the house, and then the governor has the power to temporarily curtail the expenditures so as to bring the budget into balance.

What this amendment requires is that it be done equitably, which is traditional language in appropriations bills, and it requires that it be done in such a way as to be consistent, so far as is possible and practical, with the intent of the legislature in passing the appropriations bills.

The thing that is really somewhat new, and I think is a very minor step, is that it provides that once the governor has made this curtailment he will notify the president of the Senate and the Speaker of the House of the cuts that he had made, in essence so to give those people an impact statement of what the impact of his actions will be. The obvious remedy, if this is grossly unacceptable to the President and to the Speaker and to the constituents that they represent,

namely, the members of the legislature, that the legislature can call itself into session or, if it is in session, take some action to change this result.

Obviously, also, if the governor doesn't act consistently with the legal requirements laid out here in that he do it equitably and that he do it pursuant, insofar as is practical, with the intent of the legislature, there is obviously also created, by inference, a remedy to the courts on the part of anybody who would be aggrieved and thus have standing.

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

Mr. Speers of Kennebec presented Senate Amendment "A" to Senate Amendment "C" and moved its Adoption.

Senate Amendment "A", Filing No. S-532, to Senate Amendment "C" was Read.

The PRESIDENT pro tem: The Chair recognizes that Senator.

Mr. SPEERS: Mr. President and Members of the Senate: As the good Senator from Cumberland, Senator Merrill, has expressed in Senate Amendment "C", that the governor would have to inform the Speaker and the President with regard to allotments that he wishes to cut back upon, the amendment which I am offering would broaden the number of individuals in the legislature who would have to be informed so that it would not be limited just to those two. The amendment would broaden the individuals to be informed to the minority and majority leaders, in both of the houses as well.

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

Mr. MERRILL: Mr. President and Members of the Senate: I view this as a friendly amendment. I might just point out to those who are concerned about the rights of the minority particularly that it is my understanding that the communication called for in Senate Amendment "C" is public under Maine's Right to Know Law and, therefore, would be available to every member of the legislature, as well as to the people specified in Senate Amendment "A" to Senate Amendment "C".

The PRESIDENT pro tem: The question before the Senate is the adoption of Senate Amendment "A" to Senate Amendment "C". Is it now the pleasure of the Senate that Senate Amendment "A" to Senate Amendment "C" be adopted?

The motion prevailed.

The PRESIDENT pro tem: Is it now the pleasure of the Senate that Senate Amendment "C", as amended by Senate Amendment "A", be adopted?

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, I support the pending motion for the adoption of this amendment as it has been amended. I only rise to point out to the Senate the importance in the future of very carefully reviewing the fiscal duties which are given to the governor. It was the intent of the State Government Committee that the appropriations bill preamble be very, very carefully written, as it has been in the past, and I am glad to see that this improvement on our recommendation has been made.

The PRESIDENT pro tem: Is it now the pleasure of the Senate that Senate Amendment "C", as amended by Senate Amendment "A" be adopted?

The motion prevailed.

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

Senate Amendment "D", Filing No. S-529, was Read.

Mr. CURTIS: Mr. President, this is strictly a technical amendment. It deletes some language from the bill which was inadvertently left in. In any piece of legislation of this magnitude there are bound to be a few mistakes, and if anybody

finds any more, we will try to correct them in the errors and inconsistencies bill.

I would like to, while I am on my feet, Mr. President, thank the members of my committee and the staff who have worked so diligently now for almost a year on this piece of legislation so that we would be prepared next January when the executive council finally takes its departure to replace its power.

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

Mr. KATZ: Mr. President, may I extend my congratulations to the Chairman of the Committee, who at this late hour has done a faultless job. He had so much material that there was scarcely room for it on my desk.

The PRESIDENT pro tem: Is it now the pleasure of the Senate that Senate Amendment "D" be adopted?

The motion prevailed.

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

Sent down for concurrence.

On motion by Mrs. Cummings,
Adjourned until 10 o'clock tomorrow morning.