

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

Tuesday, April 13, 1976

Senate called to order by the President.

Prayer by the Honorable Cecil H. McNally of Ellsworth:

Let us pray, Lord, for tomorrow we do not pray but for faithful hearts and good thoughts today. Amen.

/ Reading of the Journal of yesterday.

Communications

Maine State Senate

This is to express to you all my thanks and appreciation for the lovely flowers I received when I was a patient in the hospital.

They were a beautiful arrangement of mixed flowers, and colors, and did a lot to help make things more cheery. Thanks again. May God bless you all.

Sincerely,

Signed:

KATHERINE GREELEY

Which was Read and Ordered Placed on File.

Mr. Greeley of Waldo was granted unanimous consent to address the Senate:

Mr. GREELEY: Mr. President and Members of the Senate: I would also like to say thank you and that they were appreciated very much. Thank you again.

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 12, 1976 by Senator Speers of Kennebec.

Pending — Passage to be Engrossed. (In the Senate — Committee Amendment "A" (S-507) Adopted).

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

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

Bill, "An Act Providing for Administrative Corrections in Tax Laws." (H. P. 2312) (L. D. 2349)

Tabled — April 12, 1976 by Senator Cyr of Aroostook.

Pending — Consideration. (In the Senate — Passed to be Engrossed as Amended by House Amendment "A" (H-1252), in concurrence).

(In the House — Passed to be Engrossed as Amended by House Amendments "A" and "B" (H-1268) in non-concurrence).

Thereupon, the Senate voted to Recede and Concur.

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

The Committee of Conference Report — Bill, "An Act to Implement a Central Licensing Division within the Department of Business Regulation." (H. P. 2153) (L. D. 2294) report that the House recede from passage to be engrossed as amended by House Amendment "A" (H-1111) as Amended by House Amendment "A" (H-1116) thereto; indefinitely postpone House Amendment "A" as amended by House Amendment "A" thereto; adopt Conference Committee Amendment "A" (H-1271) and pass the bill to be engrossed as amended by Conference Committee Amendment "A"; The Senate recede from indefinite postponement; adopt Conference Committee Amendment "A" and pass the bill to be engrossed as amended by Conference Committee Amendment "A" in concurrence.

Tabled — April 12, 1976 by Senator Speers of Kennebec.

Pending — Acceptance of Report. (In the House, the report Read and Accepted.)

Thereupon, the Report was Accepted in concurrence.

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

Orders

On motion by Mrs. Cummings of Penobscot, WHEREAS, current statutes provide that automobile registration renewals shall be staggered throughout the year so as to provide for a smooth and uniform work flow for municipal clerks' offices and for the office of the Secretary of State; and

WHEREAS, because of the necessity for cost savings in the office of the Secretary of State, notifications of renewal dates are no longer being sent to motor vehicle registration holders whose registrations are about to expire; and

WHEREAS, this failure to send out registration notices may result in many persons, through simple forgetfulness, being in violation of the motor vehicle laws and thus being subject to arrest; now, therefore, be it

ORDERED, the House concurring, that the Joint Standing Committee on Transportation shall study the current practices and administration of the annual motor vehicle registration and registration renewal process in order to determine the desirability of reestablishing the procedure for notification of registrants by mail or of adopting some other methods of notifying registrants that their registrations are due for renewal; and be it further

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

ORDERED, upon passage in concurrence, that a suitable copy of this Order shall be forwarded to each member of the committee. (S. P. 804)

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

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

(Off Record Remarks)

On motion by Mrs. Cummings of Penobscot, Recessed until the sound of the bell.

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:

Joint Order

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 Kristin Stred Who Is A Junior at Winthrop High School Winner of the New England-New York Lincoln-Douglas Debate Championship of the Bicentennial Youth Debate Program and, Therefore, an Entrant in the National Debate Championship Contest in Washington, D. C.

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. 2330)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

House Paper

Bill, "An Act to Provide Necessary Corrections in the Education Laws." (H. P. 2341)

Comes from the House, Passed to be Engrossed without reference to Committee.

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

Mr. KATZ: Mr. President and Members of the Senate: Those of the select group who were in their seats last night when we talked about Portland buses will remember that I suggested that if the Senate made a mistake the House would be able to advise us. So before the session this morning, the Senator from Cumberland, the Chief of the State Police, and lots of others discussed this issue. And I wish the Senator from Cumberland, Senator Conley, were in his seat, because the alternative before us is whether or not to go along with the revision of the bus law that appeared in the errors and inconsistencies of the education law or to go back to the existing law. I have been told that the Senator from Cumberland, Senator Conley, will not resist the passage of this and, on that basis, I would ask the report be accepted.

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

Thereupon, on motion by Mr. Carbonneau of Androscoggin, tabled until later in today's session, pending consideration.

Enactors

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

An Act Repealing the Expungement Law and Providing for the Control of Access to and Disclosure of Criminal History Record Information. (S. P. 773) (L. D. 2326)

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

An Act to Permit Local Plumbing Inspectors to Approve Repairs to Existing Septic Systems. (H. P. 2206) (L. D. 2306)

Which 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 to Clarify the Election Laws. (H. P. 2293) (L. D. 2344)

An Act to Amend the Authorization for York County to Construct a County Jail and to Increase the Bond Authorization by \$100,000. (H. P. 2325) (L. D. 2350)

These being emergency measures and having received the affirmative vote of 30 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.

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 Scott Folsom of Edward Little High School Maine Winner of the "My America Contest" a Bicentennial Project of the

Maine Teachers Association and the National Education Association

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. 2337)

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 Dennis Coffee of Old Orchard Beach Rated Number One in the Piano Solo Competition in the State Solo and Ensemble Festival at the University of Maine at Orono

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. 2334)

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 the Sandpiper Glee Club of Old Orchard Beach Under the Direction of Lawrence Colopy Rated Number One in State Solo and Ensemble Festival at the University of Maine at Orono

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. 2333)

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 Rachel Eads of Canaan a Student of Skowhegan Area High School One of Two Maine Contestants Chosen for the New England Cast at the New England Drama Festival at South Weymouth, Massachusetts

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. 2331)

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 Joel Richardson of Skowhegan Area High School One of Two Maine Contestants Chosen for the New England Cast at the New England Drama Festival, at South Weymouth, Massachusetts

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. 2332)

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 Mrs. Faris Corey of Caribou who Created a Likeness of the Signing of the Declaration of Independence in Tapestry in Commemoration of This Bicentennial Year

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. 2326)

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

WHEREAS, some existing local construction standards inhibit the use of the innovative building techniques and materials which could serve to produce more efficient, economical structures; and

WHEREAS, energy-saving and cost-saving techniques in building should be encouraged; now, therefore, be it

ORDERED, the Senate concurring, that the Joint Standing Committee on Energy shall study the use of innovative building technology and make recommendations to change local codes that inhibit innovative techniques in non-public buildings; and be it further

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

ORDERED, upon passage in concurrence, that a suitable copy of this Order shall be forwarded to members of the Committee.

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

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

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

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)

Tabled — April 7, 1976 by Senator Speers of Kennebec.

Pending — Consideration

(In the House — Report "A" Read and Accepted and the Bill, in New Draft, (S. P. 700) (L. D. 2341), Passed to be Engrossed).

(In the Senate — Report "B" Read and Accepted and the Bill, in New Draft, (S. P. 791) (L. D. 2342), Passed to be Engrossed).

On motion by Mr. Huber of Cumberland, the Senate voted to Recede.

Mr. Carbonneau of Androscoggin then presented Senate Amendment "J" and moved its Adoption.

Senate Amendment "J", Filing No. S-571, was Read.

The PRESIDENT: The Senator has the floor.

Mr. CARBONNEAU: Mr. President and Members of the Senate: This amendment does quite a few things to Report "B", as you probably know and have read. However, I would like to explain a few things beyond what you read or try to dot some "i's" and bar some "t's".

The Maine Legislature is currently stalemated between the request of the state employees who have been denied a pay raise for two years, the need of the taxpayers, and the plea of our Governor to implement a reclassification system that will reduce current employment inequities. In the spirit of compromise, and I underline "compromise" three times, if you will, and realizing that resources of state government are not unlimited, the following plan is submitted. Basically this is what this amendment does: That all state employees be granted an across-the-board \$11 a week pay raise effective July, 1976; that an exhaustive review of the Hay Associates State Employee Reclassification Plan be immediately commenced on a top priority basis; appeals shall be heard by a board selected by the Governor from lists supplied by public employee organizations, the office of State Employee Relations, and the President of the Senate and the Speaker of the House; the board will review the Hay Report, with close attention paid to extra compensation for those employees in hazardous or extremely difficult jobs. The board would further assure equity for state employees such as the state police who work a non-standard week; that the Hay Plan be adopted at the completion of the appeal process: although such appeals from the Hay Associates model has taken years in other states, it is hoped that with the cooperation of all parties and strict appeal procedures the Hay Plan could be adopted by early '77; that in order to minimize the cost of the Hay implementation the \$11 a week raise of July '76 shall be credited against each employee's classification.

This allows implementation of the Governor's plan without penalizing the lowest paid state employees. This plan first relieves our state employees of their immediate plight and, while far from sufficient, it is as much as our current resources will allow. Second, it is responsive to the Governor's plea for a reclassification system. Time is needed, however, to grant all state employees a fair hearing before a fairly constituted appeals board so that all facts needed for final implementation are analyzed. This plan does not place any additional tax burden on Maine citizens.

I would like to go over a few of the points that were mentioned in my presentation here. Number one, I would like to explain that the \$11 a week pay raise is not in addition to whatever the Hay Plan proposes to do. In other words, if you as an individual should get a \$15 a week increase according to the Hay Plan, the \$11 that you had gotten already would be subtracted from that \$15 and you would only get four more at that time of implementation. It is not a piggyback affair.

The other thing about the Hay Report implementation with the appeals board, the appeals board would review all grievances or appeals before the Hay Plan can be implemented. In the committee that we served under, the three of us here from the Senate and five from the House, there was a lot of discussion about the implementation of the Hay Plan because of the appeal procedures. It was felt finally that if all the appeals were taken care of that it would be easier to implement the Hay Plan because everybody would be in the right slot at the right place before the Hay Plan could be adopted.

One thing that caught my eye on this thing when it was presented to me was the fact that it did not raise any taxes, and I think we don't want any taxes. Thank you sir.

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

Mr. HUBER: Mr. President and Members of the Senate: I would oppose adoption of Senate Amendment "J" on the basis that this amendment proposes an \$11 across-the-board increase, and requires a \$1,250,000 general fund appropriation to get this started.

In Report "B" there was one million dollars to commence implementation of the Hay Report pay plan. This adds \$250,000 which, on brief reading of this amendment, I believe is required due to the deferral or elimination of the merit increase proposals within the Hay Report. I don't know where this \$250,000 on a continuing basis is to come from.

The proposal to go \$11 across-the-board, deferring the implementation of the Hay Plan, I believe runs into a serious problem. Basically, minimal implementation of the Hay Plan would require \$5.1 million from all funds, or \$2.3 million from the general fund. This would place all employees in the proper grade or range at the lowest step. This amendment proposes to use the preliminary \$11 across-the-board increase to provide part of the implementation of the Hay Report, and I feel that in so doing would put some employees above where they would be under implementation of the Hay Report and, in effect, the implementation of the Hay Report for these employees is deferred, creating additional classes of employees which would be so-called red-circled or red-lined, whose compensation would be essentially frozen until the Hay Report came up beneath them.

I feel that there are substantial benefits for implementation of the Hay Report as soon as possible to derive the benefits in terms of removal of employee frustrations caused by two people doing the same job at different salaries, as currently exist in state employment. Deferral to the end of the appeal process, I feel, simply allows additional time for these long existing frustrations to cause dissatisfaction among state employees.

I further feel that the \$11 across-the-board increase credited against the Hay implementation will cause certain existing additional frustrations and sources of dissatisfaction for state employees.

This bill also contains specific provision for AFDC, which I think we all recognize is a needy, and worthy program, but we do have a letter of intent from the Governor saying that as savings are realized in this program that he will expand the standards to the extent that these savings are available. I feel that his intention clearly

expressed on, I believe, April 7th, is sufficient to show that this will be done.

My basic objection, therefore, with this amendment lies in the less than minimal implementation of the Hay Plan and the offer of an \$11 across-the-board increase which will compound and make more difficult the true minimal or more than minimal implementation of the Hay Report.

I move that this Senate Amendment "J" be indefinitely postponed.

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

Mr. CARBONNEAU: Mr. President and Members of the Senate: I am sorry that I heard those last words. I am sort of always standing up when there is an indefinite postponement.

First of all, to perhaps counter the remarks made by my good friend, Mr. Huber from Cumberland, regarding the red-line people that would not get much of a raise under the Hay Report, they would get \$11 under my amendment. They would not necessarily change range but they may go up a step or two. They would keep the \$11, which they need very dearly with the price of living the way it is.

A few comments on AFDC. In committee we discussed this AFDC to the nth degree, I believe. I think here we are trying to put a package together that might fly in both houses. I know if we remove that AFDC we are talking about right now that it isn't going to fly, it is not going to go anywhere. It will never get downstairs, that's for sure.

This is a compromise, as I underlined before, and I would like you to realize that this is the only thing I have seen so far that might possibly fly, and I say "might" with a big question mark. So I would like you to think about that very seriously. I don't think anything else will go, unless somebody can present me with a better plan, a better idea or better amendment, or amend this one to make it look better and fly, and then I will go for it. In the meantime, right now I can't see anything. It is very easy to criticize, it is very easy to take apart, but to come up with a better solution, this is what I would like to see.

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

Mr. COLLINS: Mr. President and Members of the Senate: I think the good Senator from Androscoggin is to be commended for making a very sincere effort to bring the contending views together here. I can agree with much of the material that he presents to us, but I cannot agree with enough of it to support this amendment as it is now written.

The biggest objection I have to it is that I think it strikes a major blow at the Hay Report. Within the last three years both labor and management have clearly said that we need in our state employment system a new classification. Every employer knows that the most grievous source of dissatisfaction in the working force is disparity of pay for similar or equal work. The Hay Report is a professional attempt to provide equal pay for equal work. Any such report will have its flaws. Whether it be this report or another professional report, there will have to be re-examination and adjustment.

The part of Senator Carbonneau's bill that appeals to me the most is his restructuring of the appeals board. I think that this takes a step toward insuring the fair treatment of every state employee in the classification process. But the appeals process under this program in Amendment "J" can be delayed for a long time; there is no cut-off. It says not earlier than February 15th of next year, but the final date is when the appeals are finished. And if there is any foot dragging by anybody, that process could take a year or more than a year and effec-

tively wipe out the values of this reclassification system.

The other thing that bothers me is that it seems to me in accomplishing this kind of a compromise that we are building into the picture a definite need for new money that we do not now have in sight, and that will not be in sight unless we enact a tax or the revenue picture in state income in the next several months makes a drastic improvement for the better. And I do not feel that we ought to go out on a limb to the extent that this bill takes us. Therefore, I shall have to vote to support the motion to indefinitely postpone.

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

Mr. CONLEY: Mr. President and Members of the Senate: I speak in support of the Senate Amendment "J" now before the body. I think that it would be very wise for all of us to review over the period of the last several weeks what has been trying to be accomplished by the Appropriations Committee. Last week we got in a debate over Report "A" and Report "B", and we found that Report "B" was the only item that was satisfactory, acceptable to this body, that is, the majority. Down at the other end of the hall Report "A" was the most acceptable issue to them, which leaves us in non-concurrence.

Because of that situation coming about, the presiding officer of this body and the presiding officer of the House collectively met together and appointed an unofficial committee of conference to try to work out what would be considered as an ideal compromise for both bodies. We had such distinguished gentlemen on there such as the good Senator from Knox, Senator Collins; the distinguished Senator from Androscoggin, Senator Carbonneau; the distinguished Senator from Cumberland, the Chairman of the Appropriations Committee, Senator Huber, on the part of the Senate. On part of the House there was Representative Garsoe, Representative Tierney, Representative Bagley, Representative Najarian, and Representative Smith. Now, I consider all these ladies and gentlemen to be very conciliatory in a way to be able to put things aside and try to come in with a compromise in many factions.

The amendment that we have before us this morning is almost exactly the same compromise that was worked out amongst them. In fact, they spent the good part of the day last Thursday in getting together as to attacking various parts of the appropriation act to see which of those things should be reviewed, and Friday afternoon or Friday morning they met with leadership and made a report to the full leadership as to what they had arrived at. At that time there were several questions raised, and so again that unofficial conference committee was then set up into subcommittees to go out again and to seek answers to various problems. And last Friday evening at roughly around seven p.m. the leadership again met to try to resolve this dispute. I might say that the subcommittees were subdivided into members of two and each of those subcommittees came back in agreement, with the sole possible exception of a money question primarily dealing with the Hay Report itself, the implementation.

It has been mentioned that it was going to cost — I think it was the good Senator from Cumberland, Senator Huber, who mentioned that it would cost nearly a million dollars to implement it under this particular amendment. It is my understanding that the way the amendment is written, if this was put off until February 15th, the total cost would be somewhere in the neighborhood of \$464,000.

I am disturbed, in a sense, that the motion that is pending has to be considered by the Senate, because I honestly feel that we are in the box we are in today because this legislature

has not acted in the next interest of this legislature. I think the interference from the office of the chief executive has put us in this bind. I recall a few weeks ago that any time I turned on the radio, any time I picked up a news paper, the chief executive was hammering away at the University of Maine, that the University of Maine was wasting money come dollars over fist.

It has been stated to me both in my office and in the hallways, the corridors of the third floor, that there is a little quid pro quo situation that has come about, that the troika form of government that has been established over the last six months, namely, the presiding officer of this body, the chairman of the appropriations committee, and the chief executive have made a quid pro quo that if money was restored to the University of Maine the Republican leadership would guarantee the chief executive the Hay Report and its full implementation. If that be the case, I can only state very clearly and emphatically that I am afraid, gentlemen, we are gambling with the entire report, and I don't want that to happen.

I believe that this amendment before us attacks the problem in a very serious and a very calm way, that it gives the state employees an \$11 a week across-the-board raise, that it allows collective bargaining to start and the Hay Report to be used as a guide in the implementation of those steps. I honestly feel that we will be making a very serious mistake if this amendment is defeated.

I am aware and I am sure you are all aware of what is presently going on down at the other end of the hall, that there is a proposal that is going to be coming before this body which will call for a tax increase, and I don't mind stating that the members of my party collectively, unanimously have voted to reject that tax. Now, I am telling you all that so it will give you boys around this area an opportunity to vote for it, knowing it is not going to go anywhere and it will get you off the hook for the next election. But if you want to do something for the state employees, I tell you this is the opportunity now, because I don't know what action will be taken down the other end but I am in a position where I don't want to gamble about it.

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

Mr. HUBER: Mr. President and Members of the Senate: The good Senator from Cumberland, Senator Conley, presents this as a compromise, whereas in fact, yes, it is a well intentioned compromise, but when the various subcommittees of the informal conference committee, I will call it, that met recently, came back together and made the reports there was no agreement on the part of the members of the other body who are now backing this amendment that they in fact agreed to these so-called proposals. These were presented and the backers of Report "B" indicated that these proposals appeared to be unacceptable to them and, in fact, shortly after that late evening meeting and again this morning, one of the members from the other body who now I presume is supporting Senate Amendment "J" said that he would have great difficulty, if not the impossibility, of getting this so-called compromise accepted by the members of his body and for the most part his party.

I think it is important to point out that this was not a specific proposal from those now backing Senate Amendment "J". This was not agreed on by them. It was presented as a proposal and, for reasons primarily of deferred taxation, it was rejected by the supporters of Report "B".

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

Mr. CARBONNEAU: Mr. President and Members of the Senate: I must agree with the good Senator from Cumberland, Senator Huber, regarding no agreement reached. No, there was no agreement reached Friday, not at all. We discussed a lot of things. The Democrats went one way, the Republicans went the other way, and the next thing we knew we could not accept the proposals. However, in the proposals that were offered then, which were not acceptable, some of the people from the other end of the hall did give some, and I think Senator Huber would agree with me on that.

Now, I would like to point out one particular thing. In this proposal we have essentially three things, something for this body, something for that body, and something for downstairs, so I think that is a reasonable compromise. I really believe that this is the only thing that will fly, and if we don't do it, God help us.

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

Mr. CIANCHETTE: Mr. President, because I think it is getting about time here that the Senate has got to fish or cut bait, I am wondering what alternative the opponents to this compromise would offer the Senate to support. If we do not accept this compromise, I am concerned about where we are going and how we are ever going to get to an agreeable point. So at this time, Mr. President, I would like to pose a question through the Chair to any of those Senators who are opposing this bill to just enlighten me a little bit on what the alternative to accepting this compromise might be.

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

Mr. HUBER: Mr. President and Members of the Senate: I feel that Report "B", as we will propose to modify it, is an eminently fair compensation plan for state employees. If it comes down, as I hope it does not, to a choice between Report "B" and nothing, I think the state employees in general will obviously favor acceptance of Report "B", which provides them the internal equities of having the various job classifications in a definitely better relationship to each other than they are at present. Certainly the Hay Report is not perfect, and there is an appeals procedure which we will propose to modify it and make it more effective. There is an appeals procedure to take up the questions that are raised by specific employee groups as to the classifications of their jobs.

I do think it is a fair plan. I think it is the most equitable plan, not only in terms of getting the relationship between classifications straightened out, but also in its proposal of merit pay increases under which an employee performing well will be compensated for his good performance. I think this is an incentive to good achievement in state government which is sorely needed.

While I am up, I would like to respond briefly to the comments of the good Senator from Cumberland, Senator Conley, about the interference from the executive department. I do not feel that this has been in any way interference. We have proposed our plan, and I think the executive branch has shown remarkable cooperation and flexibility in accepting some of our proposals. I don't think there is anything devious, wrong, or otherwise bad about this. I think it is a cooperation for the good of the people of Maine.

I think in terms of the difficulty in getting an acceptable plan together, I would just like to point out that the Appropriations Committee did, in an unusual move, come out with a split report. There were then various joint efforts of leadership, including an informal committee, to try and work out a compromise, but basically I think we are at a philosophical difference

between the two parties on this issue, and I think we may simply have to resolve it in the legislature as a whole. I think the time has now come.

In response to Senator Cianchette's remarks, if it does come down to the Hay Report or nothing, which I hope it does not — I hope people will see that the Hay Report is a fair and equitable compensation plan, not only for the benefit of the State of Maine but also for state employees, and I hope we don't come to this point — however, if we do, I don't think it will be a difficult question for state employees to answer among themselves of whether they would prefer an 8.9 million dollar increase, averaging 6.4 percent statewide, as opposed to nothing. I think the answer would be clear.

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

Mr. GAHAGAN: Mr. President and Members of the Senate: As a member of the Appropriations Committee, I am concerned that this bill providing \$11 across-the-board, this amendment increase, may not be sufficiently funded, and I would pose two questions, if I may. One, I would like to ask the sponsor of the amendment where the money comes from that is to fund this amendment. And two, if there is not sufficient money, Mr. President, I would like to ask if this amendment is properly before this body.

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

The Chair recognizes the Senator from Androscoggin, Senator Carbonneau.

Mr. CARBONNEAU: Mr. President, I think I can answer one question, and that is the money part of it. As I understand it, the money comes from the savings that you will have in deferring the Hay Report and the money for the lunch program that has been taken away from the employees of the state. As to your other question, I think that is up to the Chair.

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

Mr. COLLINS: Mr. President, if I may make one further response to the question of the Senator from Somerset, Senator Cianchette, the modifications that would be proposed to Plan "B" are set forth in Senate Amendment "I", which is in your notebooks. In Senate Amendment "I", you will see that we have adopted very nearly the same language and concepts that are contained in Amendment "J" presented by Senator Carbonneau of Androscoggin with respect to the temporary compensation review board.

The big difference with respect to employee compensation is in the timing. In Amendment "I", the Hay Report classification system goes into effect promptly and is revised as needed by decisions of this review board, whereas in Amendment "J" the process of correcting can linger on for at least seven and a half months and potentially for a year or more than that. I can't think of anything more unsatisfactory to an employee work force than to know that a plan is impending but in the correction process is lingering on and on and on. I think it is important to put deadlines into the picture, which Amendment "I" does. It provides for retroactivity so that the corrections relate back to the 1st of July, but in order that the process doesn't linger on, the retroactivity has a limitation of ninety days. So there is an incentive to get the work done, and there is a six months limitation on the period of time to get it done.

We have talked with those who are skilled and qualified in this sort of process, and they have told us that they think it can be very well accomplished in four months, so that the work force would feel that it had had a fair treat-

ment, that corrections had been made, and the retroactive application applied.

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

Mr. MERRILL: Mr. President, I would like to address a question through the Chair to the Senator from Knox, Senator Collins. Did those people who are so eminently qualified in the process name states that we can look to where this process has succeeded in only two or three months?

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

The Chair recognizes that Senator.

Mr. COLLINS: Mr. President, in answer to the question of the Senator from Cumberland, Senator Merrill, I would have to say that I do not have specific information in that regard. I have talked with members of the committee of three persons who worked on the reclassification corrections for the State of Maine back eight or nine or almost ten years ago, and their work at that time required three weeks. This is obviously before us a much more massive treatment and will require more time, but these persons who have suggested to me that four months would be adequate have pointed to experience in other states, and I cannot give you any specifics.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I think it is pretty obvious that the major stumbling block here is the so-called Hay Report, and I think if we put the Hay Report in perspective, I think that the amendment offered by the Senator from Androscoggin, Senator Carbonneau, makes sense, because it seems to me that the Hay Report is really not intended to be more than a guideline. It is really not that kind of study, it seems to me, and is generally not intended to be statutorily enacted. I think it is generally poor statutory practice to enact that kind of a report into the statutes. However, it is important for those who are opposed to this amendment that the Hay Report be implemented and, therefore, it is being implemented by virtue of this amendment.

There are two versions, if you will remember, of a bill that we have had before us that don't mention the Hay Report, Report "A" and Report "C". They don't acknowledge the existence of the Hay Report. But this version, this compromise version, acknowledges the existence of the Hay Report and commits the legislature to implement the Hay Report or the pay study plan, and I think it does so in an effort to reach a compromise. And it does so against the better judgment of a lot of people who have spent some time in studying and reviewing the Hay Report and who have raised some very serious questions about the Hay Report. But, in an effort to compromise, this amendment being offered by the Senator from Androscoggin, Senator Carbonneau, does commit the legislature to implement the Hay Report. It provides a fair and equitable appeals procedure, but it makes the commitment in the statute for the legislature to implement the report.

The second thing it does that is important, it seems to me, is that it ties in the very much needed — I think everyone agrees that the ravages of inflation have really hurt state employees, as they have hurt all citizens of Maine and the country — and it addresses the problem by granting that across-the-board increase, but yet tying that increase in with the implementation of the report, so that although you are giving them the needed increase, immediate increase, you are not by doing that

completely throwing out any value that the report may have.

Now, it seems to me that what we are doing here in the legislature is something that we shouldn't be doing; we are negotiating a labor contract. And I think it is very unfortunate that the legislature should be in this position of attempting to negotiate this labor contract with the state employees. We have two branches controlled by different political parties and a Governor who is an Independent, but the compromise here, it seems to me, commits the legislature to implement the report. That is and has been the basic stumbling block. And I think it is a major concession on the part of those who did not want anything to do with the Hay Report. I think that those who have studied it closely have raised very serious questions about it, but it is a major concession that the legislature of the State of Maine is committed to implement the Hay Report in a fair and equitable manner.

In reality, as has been said before, politics is the art of the possible, and this Senate Amendment being offered here is within the realm of possibility. In reality, Senate Amendment "I" is not, so that this Senate Amendment is the only one, compromise though it is, which is going to have the possibility of being accepted so that we can resolve this problem hopefully for the last time as the legislature. Hopefully in the future this problem will be resolved with the collective bargaining process.

So I hope you would vote against the motion to indefinitely postpone this amendment, that we could adopt the amendment and hope that the other body would compromise, as we are compromising, so that the matter would finally be resolved. Mr. President, when the vote is taken, I request that it be taken by roll call.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Somerset, Senator Cianchette.

Mr. CIANCHETTE: Mr. President, we have talked a lot about compromise here today, but there is another word that I think we ought to include in our discussion and our debate, and that is "compassion". Let me read out of Webster's what compassion means: compassion is sympathetic consciousness of other's distress together with a desire to alleviate it. One more time: it is a sympathetic consciousness of other's distress that the spirit of compromise and compassion is existing within those people opposing this amendment.

There is one realistic opposition that I can see, and that was expressed by the Senator from Knox, Senator Collins. He sees a non-ending process with the disposition of the appeals proceedings, and I think that is probably a legitimate and sincere request. I submit now that if you look at page 5 of the amendment, the second line, if you exchange one word then I think it would take care of all of Senator Collins' concerns about a never ending process. I see no reason why this appeals process couldn't take place, and we change the word "earlier" to "later", which would read, "but in any event not later than February 15, 1977." I think that would put the whole thing in perspective, it would give an end to the process that would not create the problems that Senator Collins is raising, and I think with that slight amendment, that one word change, that this Senate Amendment "J" represents a spirit of compromise and compassion that we have been looking for for a couple of weeks now.

To reject this amendment would put us back to where we were something like a week or ten days ago, and I think that is not necessary, I think we are not gaining anything. I think this amendment ought to be adopted today, and I certainly would support that word change in the amendment.

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

Mr. CURTIS: Mr. President, I have listened to this debate with great interest and I have reviewed the amendment as best I could to try to understand what the effect would be upon some employees for whom we also ought to have compassion, and those are the employees at the University of Maine who have not received any pay increase for at least a year.

I think there is another concept that we ought to take into consideration as we view the implementation of any type of pay increases, and that is equity. I think that the employees at the university, who are not directly state employees, but who are reliant to a large extent upon the state for funds in order to fund their pay and therefore any increase in their pay, that we need to treat those people equitably also.

I see on page 2 of the amendment the following sentence: "With respect to unclassified employees whose wage rates are not subject to determination by the governor and council, the authorities responsible for determining the wage rates of such employees shall grant similar and equitable treatment." It is not clear, Mr. President, whether or not that language would apply to the University of Maine, because by previous action of this legislature university employees were deleted from that schedule in the statutes which lists those employees of the state who fall into the unclassified service to the State of Maine.

I think the intent would be very clear, but I think that until we come up with a piece of legislation, compromise or otherwise, which includes all of the employees who are reliant upon the state and our actions here for fair and equitable as well as compassionate treatment of their pay, I think we ought not to adopt this or any other piece of legislation.

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

Mr. GAHAGAN: I would again pose a question to the Chair, Mr. President. With respect to Section 11 under the appropriation, \$464,000, it is my belief that this does constitute an inherent tax increase, and I would ask the Chair if this amendment is properly before this body. I do not believe, sir, that the funds exist.

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

Mr. CONLEY: Mr. President, it is my understanding that under Report "A" there is a 600,000 and some odd dollars surplus, and under Report "B" there is something near a \$900,000 surplus.

In checking into L. D. 2342, which I believe is Report "B", it spells out that under the University of Maine, general activities and all other, there is a \$500,000 appropriation, and it is my understanding that the \$500,000 is there for a general pay increase for University of Maine employees. Secondly, there is a \$200,000 appropriation also for student aid. And I don't believe that the amendment that is presently before the Senate deals at all with salary increases for the university.

The PRESIDENT: The Chair would advise the Senator from Aroostook, Senator Gahagan, that in the opinion of the Chair this amendment is very properly before this body.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I did very briefly mention the fact that there is a surplus in both reports that the Senate has entertained. The present one, being Report "B", as I have stated, does have somewhere in the neighborhood of a \$900,000 surplus, and I want to remind the Senate that, although it may be one-year funding, the figure of \$464,000 brought down the cost, I think, which was originally estimated to be somewhere near a million dollars.

if this thing was to be implemented right away. This being one of the reasons why the compromise report was rejected the other evening, the date has been extended to February, which brings that cost down to \$464,000. And secondly, I want to remind the Senate that the chief executive is still boasting of the fact that there will be an \$8,000,000 surplus come the end of the fiscal year.

The PRESIDENT: Is the Senate ready for the question? A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call rise and stand 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 Huber, that Senate Amendment "J" be indefinitely postponed. A "Yes" vote will be in favor of indefinite postponement; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

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

NAYS: Senators Berry, E.; Carbonneau, Cianchette, Clifford, Conley, Cyr, Danton, Graham, Johnston, Marcotte, Merrill, O'Leary, Pray, Reeves, Roberts.

A roll call was had. 17 Senators having voted in the affirmative, and 15 Senators having voted in the negative, the motion prevailed.

Mr. Huber of Cumberland then presented Senate Amendment "I" and moved its Adoption.

Senate Amendment "I", Filing N. S-570, was Read.

The PRESIDENT: Mr. President and Members of the Senate: This amendment to Report "B", in the form of L. D. 2342, would affect three areas of this report. First, on the limitation of state revenue sharing to municipalities, instead of the \$9,000,000 permanent limitation proposed in Report "B", this amendment proposed a limitation to 3.58 percent of the tax receipts to be paid on a permanent basis to municipalities. This mechanism would provide on a continuing basis 1.1 million dollars which would be used primarily to fund payments to the teachers retirement fund. It would also provide to municipalities for an increase in state revenue sharing as this tax source increases over time. Therefore, this would limit this to essentially a permanent yield of 1.1 million dollars, which could be used for teacher retirement and which specifically is proposed to be used, at least in this first year, for teachers retirement in Report "B".

The second area affected is the compensation review board, which contains changes very similar to those proposed in Senate Amendment "J". I will leave to the good Senator from Knox to outline any specific differences in these two proposed amendments.

Finally, in Section 6 on page 3 of the amendment, this bill proposes that the present salaries of individuals under Title 2, Section 6, which are department heads, shall be increased by 5 percent. This compares to the average of 6.4 percent granted on the average to state employees. This further provides the same merit system and restrictions provided herein for classified state employees shall be applied to the base salary as established above. This would allow commissioners to be eligible for merit pay increases which may exceed the statutory maximums on the exact same basis as these are available to other state employees.

I think with these changes Report "B" has been substantially improved, and again I hope that with this amendment Report "B" will be

accepted as presenting the fairest approach to a pay plan for state employees as well as the many reappropriations contained in the appropriations act and funding for the university and Maine Maritime Academy. I would also re-emphasize the fact that this does pay to the teachers retirement fund the \$1,000,000 that was not put in the budget passed in the last session of this legislature.

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

Mr. COLLINS: Mr. President, just a word about the compensation review board. This section is very much like the amendment presented by the Senator from Androscoggin, Senator Carbonneau. It does provide for consideration of environmental factors, special hazards, and the like in evaluating job classifications. It says that the non-standard work week factors shall be considered by the personnel board. The reason for this is that the personnel board has always dealt with this kind of problem, is doing so now, and can continue to do so. This is not something that in itself necessarily affects classifications. It is a pertinent factor in the adjustment of compensation, and the people there have done a satisfactory job in the past, and it seems well to keep them at a job in which they are doing well.

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

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

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, I find two problems with this amendment myself. One has to do with the incentive rewards, on page 3 under Section 6, which seems to me is contrary to the present standard that the legislature has adopted by statutorily establishing the maximum pay for commissioners and some other key unclassified officials of the state. The 5 percent increase that might be available would be added to the existing maximum — the language here has the same restrictions provided by this statute — the maximum now for people in the scheduled areas is \$25,500.

The other section I have a concern with is on the first page under the provisions for the municipal revenue sharing program, and I have another amendment to, I think, improve that.

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

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question before the Senate is the motion by the Senator from Cumberland, Senator Huber, that the Senate adopt Senate Amendment "I". A "Yes" vote will be in favor; a "Nay" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

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

NAYS: Senators Berry, E.; Carbonneau, Cianchette, Clifford, Conley, Curtis, Cyr, Danton, Graham, Hichens, Johnston, Marcotte, Merrill, O'Leary, Pray, Reeves.

A roll call was had. 17 Senators having voted in the affirmative, and 16 Senators having voted in the negative, Senate Amendment "I" was Adopted.

Mr. Curtis of Penobscot then presented

Senate Amendment "H" and moved its Adoption.

Senate Amendment "H", Filing No. S-569, was Read.

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

Mr. CURTIS: Mr. President, I offer this amendment, which does not change the money total as I would like to do, but does change the language on page 11 of the original bill, No. L. D. 2342, by making the language governing the appropriation of the money for the University of Maine under "all other" identical to the language governing the appropriation to the Maine Maritime Academy under its provision "all other", namely, it provides funds for employees' salary increases.

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

Mr. HUBER: Mr. President and Members of the Senate: Although I have some qualms about specifically requiring what the university does with the funds provided to it by the legislature, inasmuch as we have done this with the Maine Maritime Academy, and certainly this is the intent of the legislature, I agree with the motion that we should adopt Senate Amendment "H".

The PRESIDENT: Is the Senate ready for the question? The pending question is the adoption of Senate Amendment "H". Is it the pleasure of the Senate to adopt Senate Amendment "H" to L. D. 2225?

The motion prevailed.

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

Papers From the House

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

Joint Resolutions STATE OF MAINE

In the Year of Our Lord One Thousand Nine Hundred and Seventy-six.

Joint Resolution Concerning The Indiscriminate Closing of Rural Post Offices

WHEREAS, the Postal Service is presently considering closing many rural post offices across the country in the name of cost efficiency; and

WHEREAS, for a generation, Federal and State leaders have urged the dispersal of overcrowded population and commercial activities of urban to rural areas, while new policies of the postal service continue to concentrate employment and enterprise in urban centers; and

WHEREAS, the policy of pressing for closure of post offices upon the retirement of present postmasters, a policy which the Postal Service is now carrying out in Owls Head, indicates the Postal Service has not carefully evaluated the needs of its patrons and has not taken the trouble to plan to satisfy those needs; and

WHEREAS, much of the State of Maine is not suited for rural delivery and many Maine citizens, for varying reasons such as vandalism and prolonged absences, require alternatives to rural delivery; now, therefore, be it

RESOLVED: That we, the Members of the 107th Legislature in Special Session assembled, do hereby record our extreme dissatisfaction with the present policy of the United States Postal Service of closing as many rural post offices as possible; and be it further

RESOLVED: That we respectfully request the Members of the Maine delegation to the United States Congress to prevail upon the United States Postal Service to discontinue its policy of indiscriminate closing of rural post offices without careful consideration of each individual situation and in particular to suspend its proposed closure of the Owls Head Post Office pending a comprehensive review of the

necessity of this closure: and be it further
RESOLVED: That duly attested copies of this Resolution be immediately transmitted to those congressional delegates with our thanks for their prompt attention to this important matter. (H. P. 2327)

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

STATE OF MAINE

In the Year of Our Lord One Thousand Nine Hundred and Seventy-six

Joint Resolution Honoring Mrs. Helen B. Longley

WHEREAS, the Government of the State of Maine is confronted with serious fiscal problems; and

WHEREAS, The Governor and the 107th Legislature have encouraged and urged all Departments of State Government to economize and eliminate all unnecessary expenses; and

WHEREAS, it has recently come to the attention of the 107th Legislature that the First Lady of Maine, the gracious Mrs. Helen B. Longley has reduced the cost of operating the Blaine Mansion by \$73,591; and

WHEREAS, this savings is an example to all of the departments; and

WHEREAS, the Legislature desires to congratulate Mrs. Longley for her efforts and to bring proper public attention to her successes; now, therefore, be it

RESOLVED: That We, the Members of the Senate and House of Representatives, do hereby extend our congratulations and acknowledgement to the First Lady of the State, Mrs. Helen B. Longley; and be it further

RESOLVED: 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. 2336)

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

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

Bill, "An Act to Provide Necessary Corrections in the Education Laws" (H. P. 2341)

Pending — Consideration.

Thereupon, under suspension of the rules, the Bill was Read Once.

Under further suspension of the rules, the Bill was given its Second Reading and Passed to be Engrossed in concurrence.

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

On motion by Mrs. Cummings of Penobscot, Recessed until the sound of the bell.

After Recess

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

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. 791) (L. D. 2342)

Tabled — earlier in today's session by Senator Speers of Kennebec

Pending — Consideration.

The **PRESIDENT:** The Chair recognizes the same Senator.

MR. SPEERS: Mr. President and Members of the Senate: As has been noted a number of times here in debate on this particular item, there have been innumerable attempts to find a

common ground, and the end at finding a common ground on this particular item has not yet come. I am sure that we will continue to try to find some agreement whereby the legislature and the executive can pass a pay raise for state employees in this session.

Originally it had been contemplated that this bill would remain on the table until a second bill would be reported out of committee, but it became apparent a few moments ago that to attempt to keep this on the table would produce nothing more than a complete stalemate in the legislative process. And in the interests of bringing this session and this issue to a conclusion one way or the other, we have taken this from the table and I would urge that it be passed to be engrossed and sent forthwith to the other body so that we can determine what that other branch will ultimately do with this bill.

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

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

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

Papers From the House

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

Communications
STATE OF MAINE
 Office of the Governor
 Augusta, Maine 04333

April 9, 1976

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

I am returning without my signature and approval H. P. 2068, L. D. 2238, "An Act Clarifying the Use of the Mental Health Improvement Fund."

The current law under which we administer the Fund gives approval authority to the Governor and Council. This was purposefully written into law as the amounts to be generated by the Fund were and continue to be somewhat unpredictable. Flexibility is necessary to take maximum advantage of the use of the Fund and the ability of the Executive Department to shift priorities to meet the most urgent needs has been eliminated.

We are currently planning to place a priority on the use of the Fund to upgrade the Pineland Hospital and work towards accreditation of the facility. You have been informed that this is not legal under current language. Although monies retained by the Department of Mental Health and Corrections cannot be used for retardation programs, I am informed it is perfectly legal for the Department of Human Services to grant funds to Mental Health and Corrections to accomplish the objective.

I would not be opposed to the legislation if the funds generated were returned to the General Fund and went through the normal process of appropriation and public hearing. The language of L. D. 2238 establishes a precedent not applied to other special revenue accounts and the singling out of this account while not applying the same principles to other accounts is difficult to understand.

If this Legislature wishes to be consistent regarding low priority/cost effective programs, you must recognize management's responsibilities, including allocations of funds subject to legislative intent in the Executive Branch of government. In addition, even though I am advised that the Attorney General was asked to rule on the constitutionality and I am advised that he does not see a problem, I would hope it would not be necessary to raise this question in the courts in order for the Governor to be absolutely certain his constitutional authority and responsibility was not abrogated by an unintentional transgression.

I cannot believe we cannot accomplish the same objectives cooperatively, as I feel this proposed legislation mandates to a legislature a responsibility that the framers of our constitution have delegated as an executive responsibility.

For these reasons, I respectfully request that you sustain this veto.

Very truly yours,

Signed:

JAMES B. LONGLEY
 (H. P. 2344)

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

Which was Read and Ordered Placed on File in concurrence.

Comes from the House with the following endorsement: H. P. 2068, L. D. 2238 — An Act Clarifying the Use of the Mental Health Improvement Fund

In the House, April 13, 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?'

111 voted in favor and 5 against, and accordingly it was the vote of the House that the Bill become a law, notwithstanding the objection of the Governor, since two-thirds of the members 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?

The Chair recognizes the Senator from York, Senator Hichens.

MR. HICHENS: Mr. President and Members of the Senate: I rise this afternoon to ask you to vote with me in overriding the veto of L. D. 2238.

As you will recall, last year the Attorney General ruled that mental health improvement funds were illegally being used for mental retardation purposes, even though monies were generated through Pineland under the present law. He suggested that proper legislation be introduced to correct the situation. L. D. 2238 does this.

Now the Governor of the State demands that these monies be returned to the general fund rather than be used to implement programs of the mental retardation department, and wants the Commissioner of Human Services to have the complete say as to how the funds are to be used. The Governor stated last week that L. D. 2238 was unconstitutional, but the Attorney General has ruled otherwise, as stated in a letter that I would like to share with you, dated April 7, 1976.

"Dear Senator Hichens and Representative Goodwin:

"You have requested the opinion of this office as to whether Subsection 4 of Section 3172-A of Title 22, as it appears in Section 1 of L. D. 2238, House Paper 2068, violates the separation of powers provisions of Sections 1 and 2 of Article 3 of the Maine Constitution.

"This is to advise you that it is the opinion of this office that the provision in question is not violative of the separation of powers provisions of the Maine Constitution. We do not see in this legislation an encroachment by the legislature into the executive branch of government. The legislature has merely retained an appropriate legislative power by its requirement that the Department of Human Services and the Department of Mental Health and Corrections submit a plan for expenditure of monies from the Mental Health and Mental Retardation Program

Improvement Fund for approval by the legislature.

"The authority exemplified by this legislation appears in a variety of forms and legislative enactments historically undertaken by the legislature are presently operative.

"Very truly yours, Joseph E. Brennan, Attorney General"

Upon hearing of the Attorney General's decision, the chief executive has threatened to take the question to the courts. I say let him go ahead and do so if he wishes.

Now this afternoon I learned from a member of the other body that she and a member of the Senate have received a letter from the chief executive encouraging the legislature to override his veto so the funds will not be jeopardized. Why the Chairmen of the Health and Institutional Services Committee were not so notified is beyond my belief. Nevertheless, I therefore ask you to comply to Governor Longley's wishes and vote to override.

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

Mr. BERRY: Mr. President and Members of the Senate: I was attempting to get to the microphone before the good Senator from York, Senator Hichens, to explain the reasons and perhaps save him that informative discussion we have just had.

My objections to the bill I think were quite basic. They were, and those who shared my views, were founded on the provision in the bill which requires the legislature once again to get in the act and participate in the administration of the affairs of a department of the State of Maine. I think this is basically wrong and I fight it at every opportunity, and I know that many other members of the Senate share my concern in this philosophy. To think that a kitty would be set aside for the exclusive use of a joint legislative committee to divide up into areas of concern of that committee as they wish, namely, into eight different areas, and then see that these funds get there, I think is basically wrong. And I would hope that these funds get there, I think is basically wrong. And I would hope that not only this legislature but future legislatures would fight this conception. It was for this reason that I had vehemently opposed the passage of the legislation. I think in several ways this reflects the viewpoint of the Governor.

The letter of the Governor says this — and this supplements the veto message which we have just received and placed on file — he says: "Prior to submitting my veto message on L. D. 2238, I was assured by legal counsel that current law allowed the fund to be used to improve the facility at Pineland. However, after my veto message was written and transmitted to the legislature, the Attorney General issued a ruling to the effect that the fund could not be used for upgrading care and treatment at Pineland without legislative approval.

"Although I am in complete disagreement with the opinion rendered by the Attorney General, I cannot take a chance of jeopardizing the use of the fund to improve the facility at Pineland and to allow this state to meet its commitments to mentally retarded citizens.

"While I plan to pursue the issues raised in the Attorney General's opinion in the courts, I do not want to in any way jeopardize the use of the fund. I therefore ask you, because of the interest you have shown in this matter, to encourage your colleagues in the Senate to override my veto, even though I firmly believe the legislation infringes on the executive responsibility."

So I do encourage my colleagues in the Senate to vote to override the gubernatorial veto.

The PRESIDENT: Is the Senate ready for the question?

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 pending question is: Shall this bill become a law notwithstanding the objections of the Governor? A vote of "Yes" will be in favor of the bill. A vote of "No" will be in favor of sustaining the veto of the Governor.

The Secretary will call the roll.

ROLL CALL

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

A roll call was had. 32 Senators having voted in the affirmative, with no one voting in the negative, it was the vote of the Senate that the bill become a law notwithstanding the objections of the Governor, and was by the Secretary presented to the Secretary of State.

On motion by Mrs. Cummings of Penobscot, Adjourned until 11 o'clock tomorrow morning.