LEGISLATIVE RECORD

OF THE

One Hundred and Eighth Legislature

OF THE

STATE OF MAINE

Volume II
May 26, 1977 to July 25, 1977

Index
Senate Confirmation Session
September 16, 1977

Index

KJ PRINTING
AUGUSTA, MAINE
The House met according to adjournment and was called to order by the Speaker.

Prayer by the Reverend George Moore of St. Mark’s United Methodist Church, Kittery.

The journal of yesterday was read and approved.

Papers from the Senate

The following Communication:

The Senate of Maine
Augusta
June 2, 1977

The Honorable Edwin H. Pert
Clerk of the House
106th Legislature
Augusta, Maine 04333

Dear Clerk Pert:

The Senate today voted to Insist and Join in a Committee of Conference on Bill, "An Act Authorizing Municipalities to Create Development Districts" (H. P. 1216) (L. D. 1482).

Respectfully,
(Signed) MAY ROSS
May M. Ross
Secretary of the Senate

The Communication was read and ordered placed on file.

The following Communication:

The Senate of Maine
Augusta
June 2, 1977

The Honorable Edwin H. Pert
Clerk of the House
106th Legislature
Augusta, Maine 04333

Dear Clerk Pert:

The Senate today voted to Insist and Join in a Committee of Conference on Bill, "An Act to Provide for Exemption of Farm Supplies from the Sales Tax" (H. P. 538) (L. D. 663).

Senators:

JACKSON of Cumberland
PIERCE of Kennebec
MARTIN of Aroostook

The President today also appointed the following members of the Senate to the Committee of Conference on Bill, "An Act to Require Towns to Create Energy Generating Bill.

Dear

Authorizing Municipalities to

build without Secondary

members of the

D. 1694).

Energy Generating

Bill.

The Honorable Edwin H. Pert
Clerk of the House
106th Legislature
Augusta, Maine 04333
Dear Clerk Pert:

The President today appointed the following members of the Senate to the Committee of Conference on Bill, "An Act to Require To Insure the Safety and Proper Decommissioning of Nuclear Energy Generating Facilities" (H. P. 1454) (L. D. 1694).

Respectfully,
(Signed) MAY ROSS
May M. Ross
Secretary of the Senate

The Communication was read and ordered placed on file.

The following Communication:

The Senate of Maine
Augusta
June 2, 1977

The Honorable Edwin H. Pert
Clerk of the House
106th Legislature
Augusta, Maine 04333

Dear Clerk Pert:

The President today appointed the following members of the Senate to the Committee of Conference on Bill, "An Act to Require Towns without Secondary Schools to Provide Transportation to Secondary Schools" (H. P. 1025) (L. D. 1273).

Senators:

CHAPMAN of Sagadahoc
JACKSON of Cumberland
USHER of Cumberland

The President today also appointed the following members of the Senate to the Committee of Conference on Bill, "An Act to Amend the Requirement for Public Notice of Public Proceedings under the Right to Know Law" (S. P. 426) (L. D. 1448).

Senators:

CUMMINGS of Penobscot
SNOWE of Androscoggin
CARPENTER of Aroostook

Respectfully,
(Signed) MAY ROSS
May M. Ross
Secretary of the Senate

June 1, 1977.

 Came from the Senate with that Body having Adhered to its former action whereby the Bill was passed to be engrossed in non-concurrence.

In the House:

Mr. Davies of Orono moved that the House adhere.

Whereupon, Mr. Torrey of Poland requested a division.

The SPEAKER: The pending question is on the motion of the gentleman from Orono, Mr. Davies, and that the House adhere. All those in favor will vote yes, those opposed will vote no.

A vote of the House was taken.

61 having voted in the affirmative and 23 having voted in the negative, the motion did prevail.

Non-Concurrent Matter

Bill "An Act to Require That Savings from Substitution of Generic Drugs be Passed on to the purchaser" (H. P. 147) (L. D. 177) which was passed to be engrossed in the House on June 1, 1977.

Came from the Senate on which the Majority "Ought Not to Pass" Report of the Committee on Health and Institutional Services was read and accepted in non-concurrence.

In the House: On motion of Mr. Goodwin of South Berwick, the House voted to insist and ask for a Committee of Conference.

Non-Concurrent Matter

Bill "An Act to Clarify the Non-liability of Physicians and other Persons Submitting Reports to the Secretary of State Relating to the Physical and Mental Status of Motor Vehicle Operators" (H. P. 706) (L. D. 886) which was indefinitely Postponed in the House on May 31, 1977.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H. 439) in non-concurrence.

In the House: Mr. Spencer of Standish moved that the House receive and concur.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Henderson.

Mr. HENDERSON: Mr. Speaker, I would ask for a division, and I would just remind you that this is the bill we killed the other day which violates the privacy between an individual and his physician as far as reporting to the Secretary of State is concerned. I hope you would not renege and concur so that we may adhere.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, Ladies and gentlemen of the House: This bill simply provides that if a physician becomes aware of a condition which he feels would substantially or might substantially impair the ability of his patient to operate a motor vehicle on the highways of the state, he may notify the Secretary of State of that condition. The Secretary of State’s Medical Review Committee would then have to conduct an investigation and hold a hearing to determine whether in fact the person was capable of operating a motor vehicle.

The problem that we are trying to address is the person who for one reason or another loses their capacity to drive but is unwilling to admit that either to themselves or to anyone else.

The original bill, I felt, created a substantial breach of the doctor-patient relationship because it allowed them to turn over the medical records to the Secretary of State’s Office, which I felt was inappropriate. But all this provides is that the doctor can notify the Secretary of State that there appears to be a serious problem and the Secretary of State will then, through the Medical Review Committee, have a hearing and determine whether or not the person can drive.
It is a difficult situation where somebody loses the ability to operate a motor vehicle, and I think that the report would only be made in extreme cases where a person could not safely operate a vehicle and the doctor felt that he had to make such a report in order to protect the lives of the other citizens of Maine. It is essentially a balancing between the interests of the people who may be killed or maimed by a driver who cannot operate a vehicle and against what is concluded is a relatively slight loss of confidentiality in the physician-patient privilege relationship.

I would urge you to recede and concur and accept the bill as it was amended in committee.

The SPEAKER: The pending question is on the motion of the gentleman from Standish, Mr. Spencer, and he has the floor to recede against the amendment. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken. 37 having voted in the affirmative and 56 having voted in the negative, the motion did not prevail.

Thereupon, on motion of Mr. Henderson of Bangor, the House voted to recommit.

The SPEAKER: The gentleman from Bangor, Mr. Henderson, moves that we reconsider our action whereby this body voted to recommit all those in favor of reconsideration will say yes; those opposed will say no.

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

Non-Concurrent Matter

Bill "An Act Relating to the Regulation of Beano" (H. P. 50) (L. D. 71) on which the "Ought to Pass" was read and passed in the House on June 1, 1977.

In the House: On motion of Mr. Cote of Lewiston, the House voted to insist and ask for a Committee of Conference.

Non-Concurrent Matter

Bill "An Act to Establish a Pipeline Privilege Tax" (H. P. 1252) (L. D. 1476) on which the "Ought to Pass" was read and accepted and the New Draft passed to be engrossed as amended by House Amendment "A" (H. 448) in the House on May 31, 1977.

In the House: On motion of Mr. Carey of Waterville, the House voted to recommit the Bill and accompanying papers to the Committee on Taxation in non-concurrence.

Non-Concurrent Matter

Bill "An Act to Amend the Law Regarding the Licensing of Mass Gatherings" (H. P. 1900) (L. D. 1006) which was passed to be engrossed as amended by House Amendment "A" (H. 448) in the House on May 27, 1977.

In the House: On motion of Mr. Goodwin from the Committee on Health and Institutional Services on Bill "An Act to Permit Nonprofit Legal Service Organizations to Make Allocations and Appropriations from Title XX Social Services Programs" (H. P. 754) (L. D. 957) reporting "Leave to Withdraw".

Ought to Pass in New Draft

New Drafts Printed

Mrs. Curran from the Committee on State Government on Resolution, Proposing an Amendment to the Constitution, making that all State Revenues with the Exception of those now Designated to the Highway Fund, with the Exception that the Legislature may provide a Dedication of Revenues to the Department of Inland Fisheries and Wildlife, with the Exception of Provisions Attached to Federal Funds, and with the Exception of Private Gifts be Credited and Appropriated from the General Fund (H. P. 1557) (L. D. 1777) reporting "Ought Not to Pass".

Were placed in the Legislative Files without further action pursuant to Joint Rule 20, and sent up for concurrence.

Leaves to Withdraw

Mr. McGreer from the Committee on Labor on Bill "An Act to Increase the Minimum Wage to $2.75 an Hour" (H. P. 1084) (L. D. 1038) reporting "Leave to Withdraw".

Mr. Lewis from the Committee on Labor on Bill "An Act to Establish a Sliding Scale Minimum Wage Law" (H. P. 1274) (L. D. 1502) reporting "Leave to Withdraw".

Mr. Goodwin from the Committee on Health and Institutional Services on Bill "An Act to Make Allocations and Appropriations from Title XX Social Services Programs" (Emergency) (H. P. 1355) (L. D. 1755) reporting "Leave to Withdraw".

Mrs. Sewall from the Committee on Judiciary on Bill "An Act to Permit Nonprofit Legal Service Organizations to Make Allocations and Appropriations from Title XX Social Services Programs" (H. P. 754) (L. D. 1019) reporting "Leave to Withdraw".

Mr. Blodgett from the Committee on Natural Resources on Bill "An Act to Repeal Certain Provisions Relating to Logging and to Appropriations for Federal Funds" (H. P. 60B) (L. D. 853) reporting "Leave to Withdraw".

Reports were read and accepted and sent up for concurrence.

Ought to Pass in New Draft

New Drafts Printed

Ms. Clark from the Committee on Business Legislation on Bill "An Act Relating to Barbering and Cosmetologists" (H. P. 588) (L. D. 578) reporting "Ought to Pass" in New Draft (H. P. 1638) (L. D. 1838) reporting was read.

The SPEAKER: The Chair recognizes the gentleman from Freeport, Ms. Clark.

Ms. CLARK: Mr. Speaker, Men and Women of the House: I must report for the record that I was notified perhaps one half hour ago that a gentleman from the other body, Senator Farley, wishes to be placed on record as in opposition to this item, which reflects a minimum appropriation report in New Draft, L. D. 1838. I would also like to place on record that if the attendance had been more responsible, the error would have been noted in a printed report.

Thereupon, the Report was accepted, the New Draft read once and assigned for second reading the next legislative day.

Mrs. Huber from the Committee on Energy on Bill "An Act to Exempt Energy Conservation Materials from the Retail Sales and Use Taxes" (H. P. 786) (L. D. 1095) reporting "Ought to Pass" in New Draft (H. P. 1642) (L. D. 1841) reporting was read.

Miss Aloupis from the Committee on Business Legislation on Bill "An Act to Amend the Oil Burner Man Law" (H. P. 681) (L. D. 865) reporting was read.
Mr. BUSTIN: I have this amendment to bring this up in committee. It would allow the director to appear on television. It would allow them to be paid for that advertising. I think it is very important that the House accept the Minority 'Ought to Pass' Report. All those in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken. Upon the roll, Mr. Bustin requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one-fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken. And more than one-fifth of the members present and voting expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Curran.

Mr. CURRAN: Speaker and members of the House, I would like to ask a question. I wonder if the official who appears on television advertising is just as a professional director would get paid for appearing on media advertising, or does this official give to the lottery or do they get paid in terms of free advertise-

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: I would like to recognize the Committee on Education in the House.

Mr. BUSTIN: My amendment to bring this up was asked for a roll call vote. The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: I would like to recognize the Committee on Education in the House.

Mr. BUSTIN: My amendment to bring this up was asked for a roll call vote.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: I would like to recognize the Committee on Education in the House.

Mr. BUSTIN: My amendment to bring this up was asked for a roll call vote.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: I would like to recognize the Committee on Education in the House.

Mr. BUSTIN: My amendment to bring this up was asked for a roll call vote.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: I would like to recognize the Committee on Education in the House.

Mr. BUSTIN: My amendment to bring this up was asked for a roll call vote.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: I would like to recognize the Committee on Education in the House.

Mr. BUSTIN: My amendment to bring this up was asked for a roll call vote.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: I would like to recognize the Committee on Education in the House.

Mr. BUSTIN: My amendment to bring this up was asked for a roll call vote.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: I would like to recognize the Committee on Education in the House.

Mr. BUSTIN: My amendment to bring this up was asked for a roll call vote.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: I would like to recognize the Committee on Education in the House.

Mr. BUSTIN: My amendment to bring this up was asked for a roll call vote.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: I would like to recognize the Committee on Education in the House.

Mr. BUSTIN: My amendment to bring this up was asked for a roll call vote.
dressing some potential problem but there appears to be no need to address the problem as far as I can see at this time. I would regard it as unnecessary legislation. I feel that within the departments they can handle any such situations that may occur through their just rules and also through their departmental budgets regarding advertising. I feel it is unnecessary legislation.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Carey.

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry I don't have the gentleman from Ellsworth, Mr. Silsby, but I only point out that the department head usually is the one who controls that particular department's budget.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Henderson.

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry I don't have the gentleman from Ellsworth, Mr. Silsby, but I only point out that the department head usually is the one who controls that particular department's budget.

Mr. CAREY: Mr. Speaker, the gentleman from Bangor, Mr. Henderson, has posed a question from the representative of the financial

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Carey.

Mr. CAREY: Mr. Speaker, to the gentleman from Bangor, Mr. Henderson, I would only say that maps are provided as a public service.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from South Portland, Mr. Curran, that the Minority "Ought Not to Pass" Report be accepted. All those in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL


Yes: 71; No: 61: Absent, 18.

The SPEAKER: Seventy-one having voted in the affirmative and sixty-one in the negative, with eighteen being absent, the motion does prevail.

Thereupon, the bill was read once. Committee Amendment "A" (H-468) was read by the Clerk and adopted and the bill assigned for second reading the next legislative day.

Divided Report

Tabled and Assigned

Majority Report of the Committee on Appropriations and Natural Resources reporting "Ought Not to Pass" on Bill "An Act to Appropriates Funds to the Maine Amateur Athletic Union Cultural Exchange Program Emergency" (H.P. 138) (L. D. 1590)

Report was signed by the following members:

Messrs. BERTRILL of Cumberland
HUBER of Cumberland
MORRELL of Cumberland
— of the Senate.

Ms. GOODWIN of Bath
Mr. HIGGINS of Scarborough
Mrs. NAJARIAN of Portland
Pet. PERKINS of Blue Hill
MORTON of Farmington
JALBER of Lewiston
— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment (H-469) on same Bill

Report was signed by the following members:

Messrs. GREENLOW of Stonington
MERRIARTY of Caribou
LeBlanc of Van Buren
— of the House.

Reports were read:

On motion of Ms. Goodwin of Bath, tabled pending acceptance of either Report and specially assigned for Monday, June 6.)

Divided Report

Majority Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act to Repeal the Age Limit for Directors of Mutual Institutions" (H. P. 860) (L. D. 1049)

Report was signed by the following members:

Mr. FARLEY of York
— of the Senate.

Messrs. KILCOYNE of Gardiner
WHITTEMORE of Skowhegan
Mrs. BOURNE of Eustis
Ms. BURTON of Lincoln
Msrs. PEAKES of Dexter
JACKSON of Yarmouth
Ms. CLARK of Freeport
Miss. McCloud of Lincoln
Messrs. SPROWLE of Hope
RIDEOUT of Mapleton
— of the House.

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Report was signed by the following members:

Messrs. PIERCE of Kennebec
CHAPMAN of Sagadahoc
— of the Senate.

Mr. HOWE of South Portland
— of the House.

Reports were read:

The SPEAKER: The Chair recognizes the gentleman from Freeport, Ms. Clark.

Ms. CLARK, Mr. Speaker, I move that the House accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The gentleman from Freeport, Ms. Clark, moves that the House accept the Majority "Ought Not to Pass" Report.

The Chair recognizes the gentleman from Blue Hill, Mr. Perkins.

The Speaker, Mr. Speaker, Ladies and Gentlemen of the House: I today find myself on the downhill side of a Majority "Ought Not to Pass" Report on a bill which is mine. I feel it deserves a little more consideration from this House, and I would ask you to bear with me for a few moments while I explain it. This bill is the result of some very diligent work on the part of the Business Legislation Committee at the last session and which I, as an A: voter in favor of which, in fact, requires that the state mandate to savings bank directors that they retire at age 72. This, on the surface, I think, is unfortunate, because it means that the state would be mandating anything from Augusta in this manner. I think if savings bank institutions feel that they should retire at age 72, they should put it in their own by-laws and it should not be mandated from Augusta. I think also at age 72 we have many people who are very active mentally and physically and which, in many situations, are thus more apt to give full time consideration to their laborers as directors of these institutions and can give yeomen's work and do yeomen's work in this type of occupation.

I frankly feel, in very frank terms, that letting this bill go through under the banking code was a cop-out on the part of the local banks because they are then saying that the state says you must do this. We are sorry for you people, but you must retire at age 72. I just feel that this House deserves to give a little more consideration to the elderly and the aged in this case consider the elderly and not say to them, all right, now is the time, you go to the rocking chair and stay there because we have no more use for you in the professional sphere.

I would ask you not to accept the Majority "Ought Not to Pass" Report and favor the "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Freeport, Ms. Clark.

Ms. (LAHK): Mr. Speaker, Men and Women of the House: The majority opinion is not reflective of the Governor's Banking Study Advisory Committee, the committee, which at the time of its recommendation, publication of report, was composed of 36 individuals, three of these being the interested the involved the Savings Banks. The recommendation reads: "The Banking Bureau should have the power to comment on the sociological composition of boards of mutual trust institutions. Corporations and trustees of mutual savings banks should have a mandatory retirement age of 72. This provision should become effective two years after the passage of such legislation which is why this legislation is before us today.

At the public hearing on this bill, we had a single proponent and a number of opponents. Because of it, I am going to put an "Ought Not to Pass" Report in majority on an issue such as is before us. I would remind you that the opponents of the measure were representative of the financial institutions of this state as well as the banking study advisory committee.

It is interesting to note that in the savings and loan institutions across the state, of which 50 percent are savings and loan state chartered institutions, there is the mandatory age of 72 as imposed by the recodification of the act which we passed last year. Seventy is the mandatory retirement age for the nationally chartered institutions, so we here in Maine are granting the two years additional service on these boards.

It is the opinion, and I am attempting to summarize the opinion which was reflected in the opponents testimony, that a good mix of age on these boards is beneficial to the institutions, and it may happen that it is not. I am not asking the question here, although it is suggested that that is so. It is really only a symptom of a problem which has been experienced across the country, in the minds of the speakers I would simply suggest that we sit aside the issue of age and address the issue of the necessity of maintaining a good cross section of the population on the governing institutions which have such impact on all of our financial lives.

Boards of directors tend to be self-
perpetuating groups of people, and they continue on and on sometimes too long, and it is difficult to suggest to people that perhaps it might be better if they retired and or resigned. It is an awkward subject to address, but it was addressed by the advisory committee, and the recommendation was unanimous. That is reflective in the Majority ‘Ought Not to Pass’ Report, and I would ask that it be tabled for two legislative days.

The SPEAKER: The Chair recognizes the gentlewoman from Augusta, Mrs. Kane.

Mrs. KANE: Mr. Speaker, Ladies and Gentlemen of the House: I almost can't believe my own ears here today, that we are being asked to vote against a bill that would prevent people being forced to retire from what may be their only source of income and involvement in society. As a matter of age 72 and ask not to be considering it as age bill — what else can you consider it as? That is what it is: it is 72 and age, and we are being asked to say in a state law that when age 72, you are over the hill, you can't do the job, you can't do the work. I am a young person, probably one of the younger people in the House, but I can just imagine myself at age 72, and I don't think I would like it if someone treated me that way after a productive life of service.

It seems to me the argument of the gentleman from Freeport, Ms. Goodwin is that we should do the dirty work for the banks, that the banks don't want some particular people on their board at a certain age, they would like to have them a little younger, they don't want to do the dirty work of the bank. It don't intend to say that we are old men and some, maybe little old ladies, their only joy in life and only involvement is working and doing this sort of work, and they feel something worthwhile and gives them a sense of value to their lives. I don't intend to say "sorry, we don't want you." If the banks feel that that do want to say that, let them do it. I don't see why this House should do it.

I would ask for the yeas and nays.

The SPEAKER: The Chair recognizes the gentlewoman from Bath, Ms. Goodwin.

Ms. GOODWIN: Mr. Speaker, Men and Women of the House: I, too, am surprised and somewhat dismayed this afternoon that L. D. 1049 comes to this House as a divided report, for all it is written, this bill is based on the supposition that the directors of a mutual institution be determined by ability, not age. If you were a member of such a board and today was your 72nd birthday, you would have to retire from that board, although yesterday, at age 71, you were a valuable and active member. Such arbitrary determinations of continued membership are discriminatory and ageist. It says that we believe categorically that those age 72 and over are no longer useful in our society, in a society where jobs are of supreme importance in defining and individual's worth and community role. We continue to set off the elderly as second-class citizens and not worthy of the same positions we ask our young people to strive for.

A mutual institution is formed to serve its total membership and to articulate the desires and interests of the bank's depositors, and no one can argue that experience is not the best teacher, and no one will argue that age brings such experience.

The work of the Women on Aging and the 1,000 delegates to the Blaine House Conference on Aging are committed to any legislation that seeks to abolish mandatory retirement provisions. There is no possibility of the elder's additional value. We in this body of all places, know that age alone is not an accurate indicator of competence. L. D. 1049 seeks to allow boards of directors of mutual institutions to be comprised of competent members and free them from the discriminatory holds of an arbitrary forced retirement age which removes vital board members simply because they have had too many birthdays.

Age discrimination is probably the most insidious of all, because many people who practice and condone it don't even realize that they are discriminate against people according to their age, the age of their religion or their sex, and certainly not by their chronological age. Older people should not be denied equal protection under the law, and L. D. 1049 does nothing more than guarantee the right which is already theirs, and I ask you not to accept the Majority 'Ought Not to Pass' Report.

The SPEAKER: The Chair recognizes the gentleman from Winthrop, Mr. Bagley.

Mr. BAGLEY: Mr. Speaker, Ladies and Gentlemen of the House: I have always held the belief that anything worthwhile "sorry."

Some say that the trend nationwide is to do away with some of these discriminatory age rules. I guess the question was the give young people more opportunity. I guess the young people will make their own opportunities. Some people have been on a job for years and years and have acquired whatever it might be, in determining what age anybody is over the hill.

I suspect that we ought to leave this up to the organization, not a bank board, not a school board, of whatever it might be, in determining what age anybody is over the hill.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mrs. Kane.

Mr. TARBE ll: Mr. Speaker, Ladies and Gentlemen of the House: It would seem to me that there could be a less harsh manner of approaching this question. If an individual has mental or physical disabilities which prevents or precludes him or her from performing his or her duties, then it seems to me that we could approach it from that angle. But this type of 72 age cut-off line is extremely arbitrary and capricious in my opinion.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I would like to come to the support of that age group that is representatives. We think if you are aware of what has been going on in recent years, you will find that the inscriptions, the mistakes and illegal operations in the financial world have been primarily among the younger members. I also would say that history is vivid to the older group, it is simply something that comes out of the book to the younger people. I think there has to be a mixture of the old and the young.

The SPEAKER: The Chair recognizes the gentleman from Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, I move that this be tabled for two legislative days.

The SPEAKER: The Chair recognizes the gentleman from Blue Hill, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, I would request a Division.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Yarmouth, Mr. Perkins, that the question be tabled for two legislative days. Those in favor will vote yes. Those opposed will vote no. A vote of the House was taken. 71 votes were cast, 48 in the affirmative and 84 in the negative. The motion did not prevail.

The SPEAKER: The Chair recognizes the gentlewoman from Freeport, Ms. Clark.

Ms. CLARK: Mr. Speaker, Men and Women of the House: It has been quite a few months and probably almost a year since I stood on this floor and did what I have to do because I believe in it, knowing I am going to lose. I can feel the eyes and the fingers. I can almost feel the touches. And I know of the boards of directors, and I do believe that the mandatory retirement age has a salutary effect on the turnover of the boards of directors.

One wonders why the opposition to passage of this bill, John Durham, Superintendent of the Bureau of Banks and Banking, Robert Masterton, President, Maine Savings Bank, Martin Henry, Legislative Council, Maine Savings and Loan League; Leslie Hilton, Deputy Bank Superintendent speaking for himself and the former Superintendent of Bank of America, Mr. Robert who spoke who opposite to the legislative record and I will abide by your wishes.

The SPEAKER: The Chair recognizes the gentleman from Hope, Mr. Sprowl.

Mr. SPROWL: Mr. Speaker, Ladies and Gentlemen of the House: I think I, like Mr. Norris, will preface my remarks by saying I will be very brief. I think I should defend my position in signing the "Ought Not to Pass" Report.

I think we do mandate retirement age in most every field that you can think of. I think now the boards, for the most part of these banks are made up of older people and if you leave it up to the bankers to decide these boards, they just won't do it. It was brought out in the hearings in many cases, the boards are stagnated. They are made up of all older people. I submit that these boards are about the same thing as keeping young people from serving on these boards. This came about because of the banking code, there has been ample lead time to get into this. This was brought out, I believe it doesn't go into effect until October of 1977. I think that most of the directors who serve on these boards have had time to realize what is happening and I think provisions have been made for younger people to serve on the boards. I just feel that the boards are stagnated and reiterating. I think we are keeping the young people from keeping new blood off these boards. I think that it made sense the way it was prior to this bill. That is my position.

Mr. SPEAKER: The Chair recognizes the gentlewoman from Orono, Mr. Davies.

Mr. DAVIES: Mr. Speaker and Members of the House: In the past, unfortunately, this country has discriminated against individuals on a number of grounds whether it be race, sex, religion, national origins. We have found all of these to be offensive and we have stricken these. I submit that it is becoming clearly obvious that one of the most heinous ways that we deal with our citizenry is to discriminate against them based on their age.

I am proud to be a sponsor of a bill that I hope will be reaching the floor of this House within a week or so which will eliminate mandatory retirement ages throughout the society for public and private employers. Pending the action of this bill and the action of this body...
and the body at the other end of the hallway, I think this is one small step in one small area to make a difference in behalf of the people of the state of Maine, that we will no longer discriminate against people because of their age. If we are going to discriminate for any purposes whatsoever, discrimination should be based on ability, competence and choice, not age, sex, race, religion, or any of those other factors.

Let us send this bill sailing through this House with a huge vote down to the other body and say to our elderly citizens, the people who made this state and this country great, that we remember them, that we care about them and that we do not want to be old in here unless we want to tell them that, in fact, as long as they can function in society and they can contribute, we want them to do so to the fullest.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker. Ladies and Gentlemen of the House: I think is a little too bad today that this debate has generated into a —

The SPEAKER: The Chair would ask that the back of the hall be cleared and be cleared permanently. The Chair would be at ease until everyone leaves or takes their seats.

The Chair apologizes to the gentleman from Farmington. The gentleman may proceed.

Mr. MORTON: Mr. Speaker. I think it is rather too bad today that this debate has generated into a matter where we are talking about discrimination because that certainly was not the intent of this legislation. I do not believe, although I have not been following it and was not too much aware of it until today. I am a director of a bank. It is not one of the institutions that is covered under this bill but we have a requirement that directors retire at age 70, not 72 as this bill calls for.

I think discrimination is aware that the directorship in any institution is a relatively important one but in a bank, in particular, it is doubtless important because these people are responsible for the funds of deposits. It is very necessary that they be alert, they be up-to-date on modern things that is covered under this bill but we have a requirement that directors retire at age 70, not 72 as this bill calls for.

The SPEAKER: The Chair recognizes the gentleman from Hope, Mr. Sprowl.

Mr. SPROWL: Mr. Speaker. Ladies and Gentlemen of the House: I would just like to briefly refer to parts of the statements made by the gentleman from Blue Hill, Mr. Perkins. Members of the Gentle lady of the House relate that the big guns were there at the hearing, that is probably true. They were. I would like to say that I made my mind up and that the big guns were there. I thought about this and I hope that I made the right decision. It isn't because of the big guns being there or because the hearing room was filled.

I had a bill here a short while ago that went to the Veterans and Retirement Committee. It was for a constituent of mine who was forced to retire. He was a coastal warden who served 30 years and was forced to retire because he had been able to work two or three more weeks, he would have been able to obtain the 6 percent increase in his retirement benefits. I think I got around 14 votes on that bill. It wasn't from all of you people who are now standing up and talking about a retirement age of 72. Two and two generally make four and that is where most of the senior citizens have their money. I want that managed by the best people possible. I don't want the board to be elderly at age 70, not 72 as this bill calls for.

The SPEAKER: The Chair recognizes the gentleman from Belfast, Mr. Drinkwater.

Mr. DRINKWATER: Mr. Speaker. Mr. Speaker and Members of the House: I would like to tell you about a birthday party a few years ago, my 50th. I remember what happened and I think it brings about my first exposure to realizing that I was becoming elderly. We had several people, anti-business associates, family, etc. and while we were waiting for dinner to be served, I was reading the Bangor evening newspaper, this is factual. I was reading the Bangor Daily News and I see a dated news story from Farmington about "Elderly Gentleman Boated and Robbed." I was reading the story because I figured I might just know this elderly gentleman just for being 70 or 80 years old. Therefore, I started to learn right there that you start to be elderly at 50 and I would encourage you to vote "Ought to Pass."

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one-fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The Chair recognizes the gentleman from Dexter, Mr. Peaks.

Mr. PEAKES: Mr. Speaker. Ladies and Gentlemen of the House: I think is a little too bad today that this debate has generated into a matter where we are talking about discrimination because that certainly was not the intent of this legislation. I do not believe, although I have not been following it and was not too much aware of it until today. I am a director of a bank. It is not one of the institutions that is covered under this bill but we have a requirement that directors retire at age 70, not 72 as this bill calls for.

I think discrimination is aware that the directorship in any institution is a relatively important one but in a bank, in particular, it is doubtless important because these people are responsible for the funds of deposits. It is very necessary that they be alert, they be up-to-date on modern thinking and that they know what is going on. Unfortunately, it is true despite what we may wish to think that one reaches a age of 70, 72, 75, he tends to become a little less vigorous, a little less able to handle many of the tasks which he must legally face, if he is a member of a particular capacity. The big guns were there at the hearing, that is probably true. They were. I would like to say that I made my mind up and that the big guns were there. I thought about this and I hope that I made the right decision. It isn't because of the big guns being there or because the hearing room was filled.

I had a bill here a short while ago that went to the Veterans and Retirement Committee. It was for a constituent of mine who was forced to retire. He was a coastal warden who served 30 years and was forced to retire because he had been able to work two or three more weeks, he would have been able to obtain the 6 percent increase in his retirement benefits. I think I got around 14 votes on that bill. It wasn't from all of you people who are now standing up and talking about a retirement age of 72. Two and two generally make four and that is where most of the senior citizens have their money. I want that managed by the best people possible. I don't want the board to be elderly at age 70, not 72 as this bill calls for.

The SPEAKER: The pending question before the House is on the motion of the gentlewoman from Freeport, Ms. Clark, that the House accept the Majority 'ought not to pass.' Report. There being no further debate, the question will be decided by the vote of the House, and the Roll Call Vote will be taken.
I would add that, no, it has not been audited.

We did have a complete financial breakdown from the department though when we were working on this bill. Thereupon, the Majority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-485) was read by the Clerk and adopted and the Bill assigned for second reading next legislative day.

Divided Report

Report was signed by the following members:
Messrs. CHAPMAN of Sagadahoc
PIERCE of Kennebec

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.
Report was signed by the following members:
Mr. FARLEY of York
Mr. RIDEOUT of Mapleton

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker, I would like to pose a couple of brief questions, through the Chair to any member of the committee. I have heard that this outfit has been in trouble financially and I noted in the Statement of Facts that they are searching for a way to be confirmed, and I have also heard that this agency is not subject to audit and that these overdrafts seem to be a recurring event. I wonder if the committee examined that background as they came to this conclusion on the report?

The SPEAKER: The gentleman from Cumberland, Mr. Garsoe, has posed a question through the Chair to anyone who may care to answer.

Mr. GARSOE: Mr. Speaker, I would like to pose a couple of brief questions, through the Chair to any member of the committee. I have heard that this outfit has been in trouble financially and I noted in the Statement of Facts that they are searching for a way to be confirmed, and I have also heard that this agency is not subject to audit and that these overdrafts seem to be a recurring event. I wonder if the committee examined that background as they came to this conclusion on the report?

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The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

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The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.
cost because they simply, no matter what price they get paid, can go up to the consumer, so the incentive is not there.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Wood.

Mr. WOOD: Mr. Speaker and Members of the House: I feel duty bound to speak. I realize that having worked here I had benefits, but I didn’t realize they included being recognized without getting up.

On this bill, I would echo the thoughts of Representative Pearson. What we are saying in this bill is that the burden of proof is on the utilities, that if they are going to buy fuel and pass that charge on to the consumers and it is a legitimate charge to pass on, the utilities should get the best buy and the consumers should get the best break. And under the present system, they are allowed to pass on any charge and there is no watch dog making sure that they are getting the best buy and the consumer is getting the best protection. This bill just affords the consumer a little more protection.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Hickey.

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: Could I ask the sponsor of this bill if he will get a copy of the report, what alternative or what recourse has Central Maine got in presenting their bills?

The SPEAKER: The gentleman from Augusta, Mr. Hickey, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Sanford, Mr. Wood.

Mr. WOOD: Mr. Speaker and Members of the House: I am not the sponsor of the bill, but if you look at the bill, under it it says that they just want to see the statement of fact, and if they meet that requirement, they can pass it on.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Nadeau.

Mr. Nadeau: Mr. Speaker, Ladies and Gentlemen of the House: We are all shoppers and every one of you know the high rising costs of fuel. Before you fill your tank up at the beginning of every winter, you want to try to find the place you are going to get the best service at the cheapest amount for the oil. That is all we want to do. Every month when you get that bill from CMP and you have got that fuel adjustment clause, don’t you want to make sure that CMP went out and got the best deal they could get and make sure you are going to pay the least cost? That is all we are asking.

The SPEAKER: The Chair recognizes the gentleman from "Souhegan" Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: Just so the folks back home will know how we voted. I request a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from New Gloucester, Mr. Cunningham, that this Bill and all its accompanying papers be indefinitely postponed. All those opposed to that motion will vote yes; those opposed will vote no.

ROLL CALL

YEAS


Divided Report


Minority Report of the same Committee reporting “Ought to Pass” on same bill. Report was signed by the following members:

Mrs. SNOWE of Androscoggin
Mr. MARTIN of Aroostook
Mr. STUBBS of Hallowell
Mrs. KANY of Waterville
Ms. BACHRACH of Brunswick
Mr. VALENTINE of York
Mrs. MASTERTON of Cape Elizabeth
Messrs. DIAMOND of Windham
CURRAN of South Portland
Mrs. LOCKE of Sebec
Messrs. CHURCHILL of Orland
SILSBY of Ellsworth
Mr. CLARK of Aroostook — of the House.

Minority Report of the same Committee reporting “Ought to Pass” on same bill. Report was signed by the following member:

Mr. COLLINS of Aroostook — of the Senate.

Reports were read.

On motion of Mr. Curran of South Portland, the Majority “Ought Not to Pass” Report was accepted and set up for concurrence.

Consent Calendar

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(H. P. 338) (L. D. 451) Bill “An Act Empowering the State of Maine to Enter into the Interconnection Agreement in accordance with the Committee on Health and Institutional Services reporting “Ought to Pass” as amended by Committee Amendment “A” (H-495)

L. D. 1261 Bill “An Act to Avoid Delays in Payment of Workmen’s Compensation Claims because of the Involvement of Two or More Insurance Carriers” — Committee on Labor and Industry reporting “No Objections” (H-1128) (L. D. 1345) Bill “An Act to Amend the Membership and the Legislative Mandate of the Capitol Planning Commission” — Committee on State Government reporting “Ought to Pass” as amended by Committee Amendment “A” (H-496)

No objections having been noted, the above items were ordered to appear on the Consent Calendar of June 6, under listing of Second Day.

(H. P. 1468) (L. D. 1711) Bill “An Act to Encourage Energy Conservation in Maine” — Committee on Energy reporting “Ought to Pass” as amended by Committee Amendment “A” (H-497)

On the objection of Mr. Palmer of Nobleboro, was removed from the Consent Calendar. Thereupon, the Report was accepted and the Bill read once. Committee Amendment “A” (H-498) was read by the Clerk and adopted and the Bill assigned for second reading the next legislative day.

(H. P. 1469) (L. D. 1720) Bill “An Act to Provide for Adult Education for Certain Students under the Provisions of the School Finance Act of 1976” — Committee on Education reporting “Ought Not to Pass” as amended by Committee Amendment “A” (H-498)

(H. P. 1217) (L. D. 1453) Bill “An Act Appropriating Funds to Provide Road and Bathing Facilities for the Owls Head Community on Natural Resources reporting “Ought to Pass” as amended by Committee Amendment “A” (H-498)

No objections being noted, the above items were ordered to appear on the Consent Calendar of June 6 under listing of the Second Day.

Second Reader

Tabled and Assigned

Bill “An Act Relating to the Practice of Real Estate Brokers and Salesmen” (H. P. 1631) (L. D. 1835) was reported by the Committee on Bills in the Second Reading and read the second time.
On motion of Mr. Palmer of Nobleboro, tabled pending passage to be engrossed and specially assigned for Tuesday, June 7.

Passed to Be Engrossed
RESOLVE. Authorizing the Attorney General to Undertake Proceedings on Behalf of Resident Taxpayers of this State to Recover Certain Taxes Paid to the State of New Hampshire (H. P. 1833) (L. D. 1834)

Bill "An Act to Provide for the Department of Transportation to Participate in the Federal Railroad Administration Track and Equipment Safety and Inspection Program and to Administer Railroad Safety Investigation Provisions of the Maine Statutes" (H. P. 1832) (L. D. 1835)

Bill "An Act Concerning Proof of Residence Required for Certain Inland Fisheries and Wildlife Licenses" (H. P. 261) (L. D. 329)

We reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed and sent to the Senate.

Bill "An Act Relating to Granting Administration of an Intestate's Goodwill Estate under the Law of Decedent's Estates" (H. P. 1202) (L. D. 1431)

Was reported by the Committee on Bills in the Second Reading and read the second time. Mr. Tarbell of Bangor offered House Amendment "A" and moved its adoption. House Amendment "A" (H-502) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Tarbell.

Mr. TARBELL: Mr. Speaker. Ladies and Gentlemen of the House: L. D. 1431 is the bill. The amendment simply deletes one word, the word "husband," which is redundant and unnecessary in the bill. The bill pertains to someone who is without a will and the probate court must appoint an administrator to administer the estate of the deceased person. Under our current statutes, the language favors that the court appoint a male administrator over female relatives. This provision, based on sex discrimination or sex-based discrimination has been struck down by the Supreme Court of the United States. This bill would simply bring our current statutory laws into compliance with the United States Constitution and the Maine Constitution.

Thereupon, House Amendment "A" was adopted.

The bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

Second Reader
Tabled and Assigned
Bill "An Act to Amend the Maine Income Tax Law" (H. P. 1514) (L. D. 1749)

Was reported by the Committee on Bills in the Second Reading and read the second time. On motion of Mr. Carter of Bangor, tabled pending passage to be engrossed and specially assigned for Tuesday, June 7.

Second Reader
Tabled and Assigned

Was reported by the Committee on Bills in the Second Reading and read the second time. On motion of Mr. Connelly of Portland, tabled pending passage to be engrossed and specially assigned for Tuesday, June 7.

Passed to Be Engrossed
Bond Issue

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure
"An Act to Authorize the Towns of Beals and Jonesport to Withdraw from the Moosabec Community School District and Form a New District" (L. D. 69) (C. "A" H-407)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 114 voted in favor of same and one against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure
"An Act to Permit State Aid to be Distributed to the Unit of School which the Student Attends" (L. D. 409) (C. "A" H-421)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all members elected to the House being necessary, a total was taken. 114 voted in favor of same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Passed to Be Engrossed


"An Act Concerning the Practical Training of Electricians" (H. P. 122) (L. D. 155) (C. "A" H-496)

"An Act Concerning the Membership of the Standardization Committee" (H. P. 134) (L. D. 171) (C. "A" S-171)

"An Act Concerning the Payment of Workmen's Compensation Pending an Appeal to the Supreme Judicial Court" (H. P. 391) (L. D. 375) (C. "A" H-424 to H. "A" H-341)


"An Act Concerning the Per Pupil Cost of a School Administrative Unit Losing More than 33% of its Enrollment between June and September" (H. P. 907) (L. D. 1106) (C. "A" H-110)

"An Act to Amend the Method of Collecting Municipal Costs in the Abatement of Malfunctioning Domestic Sewage Disposal Units" (H. P. 1325) (L. D. 1553) (C. "A" H-411)

"An Act to Adjust the Rate of the Department of Environmental Protection for the Collection of Certain Fees" (H. P. 1586) (L. D. 179)

"An Act to Amend the Maine Income Tax Law" (H. P. 1799) (L. D. 1799) (C. "A" H-421)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.


Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mr. THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: I must confess I was caught asleep at the switch again. When L. D. 1799 was L. D. 125, it got by me in the House and I was only at the engrossment stage that we were able to oppose it. As you may remember, after much debate, L. D. 123 was recommitted to the Committee on Education. Was I naïve? I thought the idea of recommittal was to correct some part of the bill I objected to. I even asked my good friends on the Education Committee to let me know when they had a working session on the bill so I could attend the meeting. How simple can you get? I really believed they would do that. Instead, they pulled off another razzle dazzle on me. Now you see it, now I don't. I don't even notice. Some trick! I only blame myself. I should have been more alert about L. D. 1799. This was put out as a redraft of L. D. 123 but before it was engrossed, the committee was still not satisfied and a House Amendment was added to the bill. It seems to me that even the committee is not too sure of this bill. Anyway, only minute changes from the original. The title of the paragraph changed, some words could be changed without changing the meaning, nothing that I can see was changed that warranted being recommitted. If you take the House Amendment and read it, you will find you will have trouble to find anything it does to the bill. The bill itself is aimed directly at Rumford, and not, elsewhere, vocational area to force them in the future, to do what the Department of Education wants them to do, or else.

The bill and the amendment serve one purpose and one purpose only. That is to tighten the squeeze on municipalities, forcing them to spend their education money only as the Department of Education wants them to do.

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compliance. There you have it. Where is local control? The director does something and he is backed by the State Board of Education all the way, no matter what. People from our area are stubborn and they refuse to comply. The State board turns them down. If you have a loopy meeting, then when they found they could do nothing and this is when the idea of this bill was formed.

I say again, if this bill becomes law, it will not only be Rumford and the North Oxford vocational area that will be affected, but everyone over the entire state will be. Check your own areas. Is everyone satisfied with vocational high school education? Is everyone satisfied with the rules and regulations put out by the Department of Environmental Protection? All these questions at this time and get them answered later.

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mr. Burns.

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: I hope you don’t consider indefinite postponement.

I hesitated to bring Rumford back into this but it certainly is for me. The Rumford situation was one of lack of local control. When we had the hearing and the committee tried to find out the circumstances that gave rise to the disturbance, the question was raised that some of the witnesses, one of them was a school committee member. Did you know what your cooperative board member was doing? No. Does the cooperative board have minutes of their meetings? We don’t know. That was the gist of the testimony that we were getting until suddenly the Senator from Rumford said, “We don’t want to wash our dirty linen in public.” This bill is not directed at nova.

This bill has been proposed because of the nova situation. The Commissioner of Education found that the problem was handling in the two areas except in two areas. One regarding special education and the other on the reporting requirements under the School Finance Act of 1975.

The gentleman from Rumford said that you are going to be harried by the Commissioner of Education if you pass this. The Commissioner of Education will seek compliance only with the laws that the legislature has enacted, not guidelines and rules and regulations put out by the department on their own say so, but only what the legislature tells him to do. If you seek to have guidelines and procedures, you have to give the commissioner some powers. If you don’t give him power, then wipe these laws off the books because they are meaningless.

You have laws on the books that say you must have so many days of school in the year, that you must do this and you must do that. There is no power that the commissioner has to enforce these. There is only one power in the State of Maine that can withhold subsidy for non-compliance and other reasons. That rests on the second floor with the Governor and when the Governor has reason to believe that a unit is not in compliance with certain sections of the law, he can simply tell the Treasurer of the State to withhold their subsidy. The unit has no choice except to go to the courts for satisfaction. Is that the type of law enforcement that you want in the State of Maine to rest with one man on the second floor with no due process except to go immediately to the courts?

Under the bill that is before you now, there is a due process. The commissioner will notify the unit that there is non-compliance and then the Governor has reason to believe that a unit is not in compliance with certain sections of the law, he can simply tell the Treasurer of the State to withhold their subsidy. The unit has no choice except to go to the courts for satisfaction. The State Board of Education will sit and hear the case and decide if there is sufficient reason to refer to the Attorney General. The Attorney General can make the decision himself whether to seek compliance in the courts or not.

You enact laws in every area of state government and you give enforcement powers to the wardens, to the state police, to your environment people, consumer protection. You do it in every area of the state except in education and look at the tremendous number of people involved. How do you know whether you are going to get a dollar back for it or not?

I hope you do not indefinitely postpone this bill. It is a good bill and long overdue.

Mrs. POST: Mr. Speaker, Men and Women of the House: The Governor, in his recent address, Im­planted a lot of the debate because it seems like the debate went on about three months ago and we recommitted this bill through the Education Committee. I thought at that time that they were going to make some changes, it looks as though it came out about the same. Right now, under this particular proposal, a commissioner can arbitrarily withhold funds without holding a hearing if the school doesn’t make the right report. There is no due process and there is no hearing procedure when the commissioner wants to withhold funds because somebody hasn’t filed the right papers. He can do that arbitrarily. The due process only comes in when someone says that they don’t think that a school is living up to its program requirements.

Even though Representative Lynch mentioned, and he made it sound as though it were a bad idea, it really had nothing to do with this. I still don’t think that he didn’t repeal that provision. Now there are about three ways that funds can be withheld if somebody, whenever, be it the Governor or the board or the commissioner wants to do that. They do it arbitrarily. I would support the motion to indefinitely postpone this bill.

Mr. WILFONG: Mr. Speaker, I request a roll call.

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mr. Wilfong.

Mr. WILFONG: Mr. Speaker, Ladies and Gentlemen of the House: I will withdraw my question at this time and get them answered later.

The pending question before the House is on the motion of the gentleman from Rumford, Mr. Theriault, that this bill and its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Speaker, Ladies and Gentlemen of the House: I will withdraw my question at this time and get them answered later.

The Speaker recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: I talked to the gentleman outside. I don’t have the answers at this time. I tried to call the Secretary of State’s office. I would hope that maybe somebody would table this for one day.

The Speaker recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: I will withdraw my questions at this time and get them answered later.

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Thereupon, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Standardize Some of the Procedures and Statutes Administered by the Department of Environmental Protection.


Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

An Act Concerning the Motor Vehicle Certificate of Title and Anti-Theft Laws of Maine.


Were reported by the Committee on Engrossed Bills as truly and strictly engrossed.

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Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: I talked to the gentleman outside. I don’t have the answers at this time. I tried to call the Secretary of State’s office. I would hope that maybe somebody would table this for one day.

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Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: I talked to the gentleman outside. I don’t have the answers at this time. I tried to call the Secretary of State’s office. I would hope that maybe somebody would table this for one day.
The Chair laid before the House the first tabled and today assigned matter:


Tabled — June 1, 1977 by Mr. Tierney of Lisbon Falls.
Pending — Passage to be Engrossed.

The SPEAKER. The Chair recognizes the gentleman from Lewiston, Mr. Balbert.

Mr. BALBERT. Mr. Speaker, Ladies and Gentlemen of the House: I would like to thank the gentleman from Lisbon Falls, Mr. Tierney, for tabling this measure. At the time, I didn't feel that I wanted to debate the measure. Thank you for presenting its aspect.

This bill as it has been amended now is absolutely useless. It would just be cluttering up the books for no reason at all. I am not going to make any further comments. I would prefer to have this bill simply with one of the bureaus that has the money attached to it so that it can go through the original bill as it was originally passed.

The Chair recognizes the gentleman from Nobleboro, Mrs. Najarian.

Mrs. NAJARIAN. Mr. Speaker. I move that this bill and all its accompanying papers be indefinitely postponed.

The SPEAKER. The Chair recognizes the gentleman from Portland, Mrs. Najarian.

Mrs. NAJARIAN. Mr. Speaker. I move that this bill and all its accompanying papers be indefinitely postponed.

The Chair recognizes the gentleman from Portland, Mr. Howe.

Mr. HOWE. Mr. Speaker, Ladies and Gentlemen of the House: I agree, to some extent with the gentleman from Lewiston, in that this amended bill is somewhat watered down from its original version. I don't believe it is at all useless.

Let me go through the original bill as it was criticized in earlier debate. It provided that all the funds generated by, and received by the VTI's be kept in a special fund for their use, tuition, gifts, and so forth and so on. It also said that the Department of Education could allocate the faculty administrative positions as it saw fit. There was criticism at that time, that that provision of the bill would take that power out of the hands of the legislature. That provision of the bill has been completely done away with. The first provision, dealing with the VTI fund has been amended so that the only funds that will be retained by the VTI's are those funds received by tuition and other gifts which exceed the Governor's estimate of the VTI's income through tuition. That estimate must be reviewed by the legislature. The legislative review it seems to me will prevent the tinkering with the enrollment figures by VTI administrators which was the concern of at least one member of the House. If one of the VTI's should find a necessity of setting up a new program on short notice, the increased tuition which presumably would be over the Governor's estimate, could be kept by the school to pay for that program without having to wait a year or two for legislative appropriation. To that extent, I think it is a useful bill.

I would urge that we not indefinitely postpone the bill but enact it here today.

The SPEAKER. The Chair will order a vote. The pending question before the House is on the motion to table a bill from Portland, Mrs. Najarian, that L. D. 285 and all its accompanying papers be indefinitely postponed.

These in favor will vote yes; those opposed will vote no.

A vote of the House was taken.
34 having voted in the affirmative and 56 in the negative.
Thereupon, the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The SPEAKER. The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS. Mr. Speaker, having voted on the prevailing side. I now move reconsideration and hope you all vote against me.

The SPEAKER. The Senator from Scarborough, Mr. Higgins, having voted on the prevailing side. now moves that the House reconsider its action whereby this Bill was passed to be enacted.

The Chair recognizes the gentleman from Lewiston, Mr. Balbert.

Mr. BALBERT. Mr. Speaker, Ladies and Gentlemen of the House: Being in a lollygagging feeling today, I hope that you all go along with Mr. Higgins.

The SPEAKER. The Chair will order a vote. Those in favor of reconsideration will vote yes; those opposed will vote no.

A vote of the House was taken.
12 having voted in the affirmative and 71 in the negative, the motion did not prevail.

The Chair laid before the House the second tabled and today assigned matter:

Bill 'An Act to Authorize Bond Issue in the Amount of $11,500,000 for the Highway and Bridge Improvement Program' (S. P. 65) (L. D. 136)
Tabled — June 2, 1977 by Mr. Carroll of Limmerick.
Pending — Passage to be Engrossed.
Whereupon, the bill was passed to be engrossed and sent up for concurrence.

The Chair laid before the House the third tabled and today assigned matter:

Senate Divided Report — Majority (9) "Ought to Pass" — Minority (4) "Ought Not to Pass" — Committee on Judiciary on Bill "An Act Relating to the Jurisdiction of the Administrative Court" (S. P. 241) (L. D. 730) — In Senate. Majority "Ought to Pass" Report Read and Accepted and the Bill Passed to be Engrossed.
Tabled — June 2, 1977 by Mr. Palmer of Nobleboro.
Pending — Motion of Mr. Tierney of Lisbon Falls to Accept the Minority "Ought Not to Pass" Report (Roll Call Requested)

The SPEAKER. The Chair recognizes the gentleman from Bangor, Mr. Tarbell.

Mr. TARBELL. Mr. Speaker, Ladies and Gentlemen of the House: I am sorry for being so wont on Item 3. Don't worry, I have heard that pun many more times than you have.

As I promised yesterday, I prepared an amendment to this bill. I would urge you not to go along with the Minority 'Ought Not to Pass' Report. I would urge you to defeat that so that I might place this amendment that is on your table today on the bill.

The principal bill separates out the judicial powers of the Consumer Protection Agency Commissioner; places the judicial powers under the auspices of the administrative court. The argument, and a very sound one, in our judgment, is that if it is good enough for the consumer protection agency, is it not also wise to do the same thing with the banking and the insurance industry? The answer is yes.

The amendment would simply bring the banking commissioner and also the insurance commissioner whenever they exercise judicial powers into the administrative court. When he exercises removal powers which is judicial in nature, the insurance commissioner when exercising licensing powers which is judicial in nature, would bring these judicial powers also under the administrative court. As you are probably aware, the commissioners in all these cases have protection; banking and insurance wear three hats. They serve an investigative role, a prosecution role and a regulatory (also a judicial) role on a day-to-day basis.

In many cases, it is a conflict of interest I submit to you, to be prosecuting a case and judging a case at the same time. It makes a charade of due process here.

I would urge you to defeat the Minority "Ought Not to Pass" Report so that I might submit this amendment today.

The SPEAKER. The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER. Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to support the "Ought Not to Pass" Report on this bill.

The further I get into this, the more it seems to become a can of worms.

The original bill would provide that the Bureau of Consumer Protection would have to turn over all its cases to the administrative court. The administrative court right now is undergoing a very serious situation where the judge of the administrative court is currently in a coma with a very serious condition of his health.

The administrative court, in the past, has had a tremendous backlog and it has taken six to eight months to get a decision out of the administrative court.

The legislature in the last session authorized the creation of an additional judge for the administrative court in order to begin to try to deal with the tremendous volume of work which the administrative court has to handle. That person is just being appointed. The Judiciary Committee will be holding a hearing next week to consider his nomination. Depending on the situation with Judge Robinson, who is extremely ill right now, there is a serious possibility that a great many cases, which have already been heard, will have to be reheard so that the decision can be made by the person who has held the hearing. It seems to me that it is a very difficult and poor time to be transferring powers to the administrative court.

Another problem with this bill is that it deals simply with one of the bureaus that has the combination of investigative and a judicial function. The proposed solution to that is to add to the bill the Bureau of Insurance and the Bureau of Banking which would then compound the bureaus which currently exist and will continue to exist with the administrative court system.

There is also a problem with the procedures of going to the administrative court if that results in long-term delays. That problem is that there is a very short statute of limitations on the truth and lending requirements of a one-year statute of limitations. If there are protracted delays in the administrative court proceedings, some of those individuals who have a remedy may not know the violation and the commission which may not occur until after the statute has passed for them to initiate their own individual cases.

The underlying principle in this bill that the bill should be separate the investigative function and the judicial functions is a sound one.
minsterive procedure act for all three of the agencies concerned. An amendment to this procedure act is having a hearing before the State Government Committee next week.

I would urge you to accept the "Ought Not to Pass". At this time the Administrative court and Insurance committees have been hearing this. I think this has been made by the gentleman from Bangor. I think his motives are pure and I think he believes sincerely in the due process argument here which is not totally without merit. There has been a great deal of interest in both caucuses now. and I think most people in the legislature two or three days sooner than if we try to deal with all of this and then deal with it over again in the administrative procedures act.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Tarbell.

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: In response to the multitude of points raised by the gentleman from Standish. First of all, we had before us an announcement of a nomination of a second administrative court judge yesterday. It is my understanding that we have before the Appropriations Committee with preliminary or advisory advice. It is a very efficient court. Mr. Sawyer, how long does it take to have a hearing before the administrative court judge yesterday. I hope that we will look at that bill and not take. I hope that we will take a serious look at the practical effects of this bill which Representative Spencer has alluded to. The backlog of the administrative court is long and even though we may add a second judge to that court, we will, without question, be adding to its burden if we give it the load of cases from these three bureaus.

Imagine if you are involved in a hearing before a commissioner who is prosecuting the case in question and if there is a hearing held in the administrative court by enactment of this bill and the amendment that I would propose. Sixteen cases were heard by the Commissioner yesterday. That commission, in my opinion, is to find someone or a business in violation of that act with which he is charged with enforcing. He can issue what is called a cease and desist order. If they do not comply, the person charged were to refuse to obey that order, the Superintendent of Consumer Protection, to take any further action, would have to go into court to get an order of enforcement. He would have to go to court to enforce that act with which he is charged with enforcing. For example, does have to go to the administrative court to act? He said, anywhere from six months to four years. That is a very simple kind of a case. I am very concerned about the practical kind of a case. I am very concerned about what is going to happen if we send a very complicated truth-in-lending case, a case dealing with the banking or the insurance laws before the administrative courts, how long those cases will take.

This bill was put in, I believe personally, in the hope that these cases would drag out to the point where the one year statute of limitations on a consumer credit code will expire before the case is ever heard. If we go ahead and add two more agencies to that load, the load is going to be more severe and I think we will be in greater danger that those cases will die before they are ever heard.

Now, if it is get John Quinn that you want, this is simply an im­ temperate kind of action for the legislature to take. I hope that we will take a serious look at L.D. 1768 because the State Government Committee. After the bill was heard, the committee did vote on the bill and, at that time, I stated that I wanted to get further information from the bureau that is involved, concerning the administrative court and signed the bill "Ought Not to Pass." Three other members of the committee also signed the bill "Ought Not to Pass" who would, as far as I know, never sign "Ought to Pass." So it isn't that we changed our minds on this matter. It is simply that looking into the matter and soliciting information that was not presented at the hearing, we came to the conclusion that this bill would create more problems than it could hope to help solve.

I would urge you to accept the "Ought Not to Pass" Report and address the comprehensive question, if that is what the concerns in the administrative procedures act. The principal tenets of this act, as I understand it, is to ex­amine this area, the separation of investigatory and adjudicative functions and to establish some uniform rules that are applied to all of the agencies that combine these powers. I think that we would make a great mistake if we try to deal with all of the aspects of the much broader bill when there is the broader bill being considered in having a hearing next week. I think that the case for this bill can very easily be made in conjunction with the administrative procedures act.
I would urge that we act now on the "Ought Not to Pass" Report here and then allow this matter to be considered as part of the general problem.

Mr. TIERNEY: The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. Morton: Mr. Speaker, Ladies and Gentlemen of the House: I submit the amendment. Then talk about it. As I said:

We are also told that in order to have that bill at all and get it on the books is going to take a great many more administrative judges, a great many more dollars, and as one member of the Appropriations Committee, I don't know where those dollars are going to come from, so far as I can see, you want to provide for this due process that the gentleman from Standish was speaking of. The gentleman from South Portland is a little hazy about whether it is necessary or not but he seems to believe that it is, then I see no alternative but to let this bill go along and provide for the use of the two administrative judges that we have. Unfortunately, on one of them is extremely ill at the present time. The Speaker: The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. Carroll: Mr. Speaker, Ladies and Gentlemen of the House: I say to Representative Howe, you are right on target. We have played with it too long already. Let's give it a good funeral right now.

SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. Morton: Mr. Speaker, Ladies and Gentlemen of the House: I submit that that is not a more fundamental position of the administrative court judge than he has been able to provide for the use of this department.

SPEAKER: The Chair recognizes the gentleman from Lisbon Falls, Mr. Ternay.

Mr. Ternay: Mr. Speaker: Mr. Speaker, Members of the House: At the personal request of the gentleman from Limerick, Mr. Carroll, he has asked me to deliver a eulogy this afternoon for the particular piece of legislation. At least I hope it turns out to be a eulogy. I think it should be clear who the opponents of this bill are. I do not blame the good gentleman from Bangor. He had to reconsider it. His friends did not realize that he had to reconsider it.

SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. Morton: Mr. Speaker, Ladies and Gentlemen of the House: I submit the amendment. Then talk about it. As I said:

Mr. Speaker. Men and Women of the House: At the personal request of the gentleman from Lisbon Falls, Mr. Ternay, he has asked me to deliver a eulogy this afternoon for the particular piece of legislation. At least I hope it turns out to be a eulogy. I think it should be clear who the opponents of this bill are. I do not blame the good gentleman from Bangor. He had to reconsider it. His friends did not realize that he had to reconsider it.
The House: I objected to any system in which you go into court and somebody says you are guilty, now you prove to me you are innocent.

The SPEAKER: A roll call has been ordered.

The pending question is on the motion of the gentleman from Lisbon Falls, Mr. Tierney, that the Minority 'Ought Not to Pass' Report be accepted on L. D. 733 in non-concurrence.

All those in favor of that motion will say 'aye'; those opposed will say 'no.'

ROLL CALL


Yes, 77, No, 55; Absent, 19.

The SPEAKER: Seventy-seven having voted in the affirmative and fifty-five in the negative, with nineteen being absent, the motion does prevail.

The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. Tierney: Mr. Speaker, having voted on the prevailing side. I move we reconsider our action and I hope you all vote against me.

The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney, having voted on the prevailing side, now moves that we reconsider our action whereby the Minority 'Ought Not to Pass' Report was accepted in non-concurrence.

The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. Tierney: On the part of the House:

"An Act to Provide for Exemption of Farm Supplies from the Sales Tax" is ordered to be reported by the Committee of Conference.

Reference was made to H. P. 538 (L. D. 653) "An Act to Provide for Exemption of Farm Supplies from the Sales Tax" in reference to the action of the House on H. P. 538, written as, First Reading and for a Committee of Conference, the Chair appointed the following Conferees on the part of the House:

Mr. POST of Owls Head
Messrs. MAXWELL of Jay
McBREAIRTY of Peruham

Mr. Birt of East Millinocket was granted unanmious consent to withdraw.

Mr. BIRT: Mr. Speaker. Ladies and Gentlemen of the House: On your desks this afternoon, you have a publication, the Flight of the Grand Eagle. This flight of the Grand Eagle has been written as, you may have noticed, by the Speaker's staff assistant, James Mundy, and Earl Shuttleworth who is presently head of...
Charles Bryant, who was apparently the Grand Eagle, was an architect and engineer and an adventurer. He did much of the design work on some of the older buildings in Bangor. For a long while, the Bangor House was considered to have been developed by some of the Boston architects because of the grandeur of the building. Lately, it has been found, through the research of these two gentlemen, that the Bangor House was actually designed by Charles Bryant, a fellow who was born in Belfast and worked his way up through Bangor. There are many other houses, a couple of churches in Bangor that were designed by Charles Bryant.

Later, after the financial crash in 1837, he left Bangor and got involved in a couple of episodes, finally ending up in Texas where he got involved in the rebellion in Texas and was eventually killed there.

I think it is a rather interesting publication. I hope you will get a chance to sit down when the session is over and have time to read it. I think you will enjoy it. It is one of the lesser known but probably one of the more interesting characters that has come out of the State of Maine. There are a few copies of it still left, and if you want an extra copy to take home to your library or something of that nature, there are not enough copies so you can have a large number, but if any of the legislators want another copy, it can be obtained by contacting Earl Shuttleworth at the Historic Preservation Commission.

(Off Record Remarks)

Mr. Pearson of Old Town was granted unanimous consent to address the House.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: The Republican Message is out and I would urge every Democrat in the House to try to get a copy of it for a lighter material this weekend.

On motion of Mr. Garsoe of Cumberland, Adjourned until Monday, June 6, at nine-thirty in the morning.