

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Eighth  
Legislature***

OF THE

STATE OF MAINE

**1978**

**Second Regular Session**

January 4, 1978 — April 6, 1978

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APPENDIX

HOUSE

Monday, January 23, 1978

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Reverend Peter Misner of the Winthrop United Church, Winthrop.

Reverend MISNER: Let us pray. Almighty God, at the beginning of a new week's work, we give thanks for the privilege and responsibility which has been laid upon this body of representatives of the people of the State of Maine. Grant, we pray, that those who serve in this place may exercise clear vision and good judgment as they consider the needs of all the people.

We recognize before you, in the presence of one another, that the task of decision and response is a treasure held in earthen vessels. In ourselves we have neither great wisdom nor great power; therefore, we ask that your guidance may lighten the places where shadows cloud our understanding. Grant the members of this House to walk with inner light among the shades of gray and to dare to stand sometimes alone amid the battle for those causes they believe to be ultimately right. Thank God for those who dare to march to the sound of the different drums. Let the deliberation of this House so move this day that a climate of justice and of peace may prevail and receive at the day's end the satisfaction of work well done. Amen.

The members stood at attention during the playing of the National Anthem by the Winthrop High School Band.

The journal of the previous session was read and approved.

Papers from the Senate

Bill "An Act Relating to the Classification of Drug Offenses" (S. P. 676) (L. D. 2094)

Came from the Senate referred to the Committee on Judiciary and ordered printed.

In the House, referred to the Committee on Judiciary in concurrence.

Non-Concurrent Matter

Bill "An Act Relating to Type of Notice under the Exceptional Children Statutes" (H. P. 1868) (L. D. 1918) which was passed to be engrossed as amended by House Amendment "A" (H-962) in the House on January 18, 1978.

Came from the Senate, passed to be engrossed in non-concurrence.

In the House: On motion of Mr. Lynch of Livermore Falls, the House voted to recede and concur.

Messages and Documents

The following Communication:

STATE OF MAINE  
ONE HUNDRED AND EIGHTH  
LEGISLATURE  
COMMITTEE ON ELECTION LAWS

January 19, 1978

The Honorable John L. Martin

Speaker of the House  
State House

Augusta, Maine 04333

Dear Mr. Speaker:

The Committee on Election Laws is pleased to report that it has completed all business placed before it by the 108th Session of the Maine Legislature.

Bills received in Committee 1  
Ought to Pass as Amended 1

Sincerely,

Signed

ANNE M. BOUDREAU  
House Chairman

The Communication was read and ordered placed on file.

The SPEAKER: The Chair would like to thank the gentlewoman from Portland, Mrs. Boudreau, for being the first committee to

finish all of its business before this session.

From the Senate: The following Communication: (S. P. 677)

STATE OF MAINE  
OFFICE OF THE GOVERNOR  
AUGUSTA, MAINE

January 19, 1978

The Honorable Joseph Sewall

President of the Senate

The Honorable John Martin

Speaker of the House

Dear Joe & John:

This is to formally notify you I have today nominated Frank B. Tupper of South Windham to serve on the Maine State Retirement System Board of Trustees.

Mr. Tupper has served one year of a three year term and is now being nominated to serve a full three year term. In accordance with the Law, Mr. Tupper was selected from a list of candidates submitted by the Maine Retired Teachers Association. His nomination will require confirmation by the Joint Standing Committee on Veterans and Retirement and the Senate.

Thank you for your cooperation in this regard.

Very truly yours,

Signed

JAMES B. LONGLEY

Came from the Senate read and referred to the Committee on Veterans and Retirement.

In the House, the Communication was read and referred to the Committee on Veterans and Retirement in concurrence.

Orders

On motion of Mr. Martin of Eagle Lake the following Joint Order: (H. P. 2023) (Cosponsors: Mr. Quinn of Gorham, Mr. Palmer of Nobleboro, Mr. Garsoe of Cumberland)

ORDERED, the Senate concurring, that the Joint Standing Committee on Taxation be directed to report out a bill, not later than 10 days prior to adjournment of the second regular session to provide for reform of the State tax laws.

The Order was read and passed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Mr. Kelleher of Bangor the following Joint Order: (H. P. 2024) (Cosponsors: Mr. Kerry of Old Orchard Beach, Mr. Green of Auburn)

ORDERED, the Senate concurring, that the Joint Rules be suspended for the purpose of permitting Representative Kelleher to introduce into the Second Regular Session of the 108th Legislature a bill entitled "Homestead Property Tax Credit", which will provide a \$100 credit, or eliminate the tax liability, whichever is less, to provide property tax relief to resident Maine homeowners.

The Order was read.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you people have read this order that is being presented here today. To give you a little history of the order and the reason for its being presented, once we came back into session, through a release by Governor Longley's office indicating a substantial surplus or potential substantial surplus in the State Treasury, there were a number of people, including myself, who were interested in introducing tax bills of a variety of sorts. I went through the normal channels, as I think you as legislators would do, presenting to my legislative leader, Mr. Martin, a proposal that I wanted to be considered at this session. The proposal was taken before the Legislative Council and was rejected. From what I am able to understand, it was rejected, I don't believe because of the bill itself, but because of, as leadership believed it to be, an avalanche of bills that would be

coming in either dealing with taxes or with other legislative matters. I reject the system.

I have the highest regard for the ten members who are on the Council, but I reject the avenues that we have to pursue in getting legislation in after cloture. I reject the idea that if this order should pass, other bills presented by legislators would be let in. And I ask each and every one of you—who elects you to come down here, your constituents or the ten members of leadership?

I have always believed, and I think I have expressed myself more than once on the floor of this House in the last ten years, in the opportunity for each and every one of us as individual legislators to be able to state our case.

I read with interest this morning an article that the good floor leader, Mr. Palmer, in a release that he made down in Nobleboro yesterday speaking before a group — the headline reads, "Palmer raps government as being too brash and distant." What I am saying here this morning is, I believe we should not, whether it is this bill of mine or any of your own that you may want to introduce, allow ten individuals to actually call the shots in dealing with legislation.

Notwithstanding the rule, and the rule was introduced a few years ago creating the council, I, as a number of other legislators, opposed it simply because we didn't think it was fair to put that type of power in the hands of ten people.

As a legislative body, and I understand this always has been supposedly the body of the people, the lower house, what you are doing, or what we are allowing to be done, is to prohibit ourselves from legislating laws.

I really am not concerned about concern of the ten members in leadership worrying about an avalanche of bills coming in. Why are we elected to come down here? We are elected to come down here to legislate on behalf of our own constituents and on behalf of the people of the State of Maine as a whole. I think the point is important, not necessarily the bill itself that I have before you, which wanted to be cosponsored by Mr. Carey and Mr. Green, that is why their names are on the order this morning — I think the important point is, are we going to allow ourselves the opportunity to present legislation? I know it takes two-thirds to pass it in this House. I also understand, through the courtesy of the assistant floor leader, that he is going to move to kill the order because of the fact that he is in leadership, and I appreciate the kindness of him coming over and telling me that, because I know in his heart that he philosophically could accept this kind of a tax bill.

The order that was presented just prior to this order — I understand the motives and the reasons. I am not sure I understand why it was before my order; however, it happens to be there. The important thing is and the point is that each of us as legislators should have an opportunity under the rules, or even under suspension of the rules, to introduce legislation, that is why we are here.

When Mr. Quinn makes his motion, and I hope you will ask for a roll call, it will save me from getting up, Mr. Quinn, I think it is important because I think it is important for each and every one of us to indicate where we stand as individual legislators or where we stand collectively as legislators. Mr. Speaker, I ask for the yeas and nays on the passage of my order.

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

Mr. CAREY: Mr. Speaker and Members of the House: I would move indefinite postponement of the order and ask for a roll call. Ms. Benoit already has a bill in which would deal with the subject matter, and I know through my long friendship with the gentleman from Bangor, Mr. Kelleher, that pride of authorship is not one of his outstanding traits, that he is more interested in the passage of good legislation. So if his bill did not get printed, I know

he would throw his weight behind Ms. Benoit's bill.

The order that was referred to on your calendar, 4-1, is, in fact, an order which we would accept if it is passed — we on Taxation would accept testimony on all tax reform matters and, obviously, Mr. Kelleher could make his presentation to the Taxation Committee at that time. That bill will be reported out; it has to be reported out. If, in fact, it does not contain Mr. Kelleher's options, then, obviously, he is entitled to present amendments on the floor.

Mr. Speaker, I would ask for indefinite postponement and again ask for the yeas and nays.

The SPEAKER: The gentleman from Waterville, Mr. Carey, moves that this order be indefinitely postponed and requests a roll call vote.

The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker and Members of the House: I support the indefinite postponement motion made by Mr. Carey, and I do so with a great deal of respect both personally for the gentleman from Bangor and for his argument, but this, it seems to me, is not really the time nor the place for that particular argument. What he is doing is mixing the merits of a proposed bill with a joint rule of the legislature which has been passed and I happen to feel has been working quite well. I do support this rule and do feel that it has led to a great deal of increased efficiency. I think it is giving the legislature a better reputation. I think we are, in fact, addressing our laws more particularly and doing a better job of it, but that is an argument of theory which I would be glad to engage in with Mr. Kelleher at some other time.

I think the question now becomes one of, shall we admit a bill, and I agree with Mr. Kelleher, I approve of this particular bill and did, in fact, vote for it when it came before leadership as being a very good idea to address in the area of taxation. I support again what Mr. Carey just said. I am sure that this material will be addressed by the Committee on Taxation, and I am sure that the gentleman from Bangor and his cosponsors will have a fair hearing, but if we are to waive the rules today, we not only open the question of a whole new series of rule changes, we also tend to open the door to a whole series of bills, each individual tax proposal, all of which can be treated fairly and with decency and with time by the Taxation Committee itself. I therefore urge you to support the motion for indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Laffin.

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: This is a situation that we have discussed before, I am sure.

I have the greatest respect for the gentleman from Bangor, Mr. Kelleher; however, he has been around here for quite awhile and he knows the procedures. He knows that between sessions of the 108th Legislature, if he or any other member wanted the rules changed, we should have changed the rules at the start of the 108th and not in the middle.

I realize there are a lot of bills that different people would like to introduce, and I, myself, would like to introduce a few. Some, I am very sure, would not be too popular with the other members of this House; they would be very popular with the people of Maine but not with certain members of this House.

I can't see how we are going to take and set a whole new set of rules after we have once said this is the way we are going to go. So, in the middle of the game we are going to change the rules and are going to start letting in all these bills. Fine, I certainly have no objection to letting them in, I would be the first to do that. You know, I feel a little out of place when other bills are let in and mine are not, because I believe that my bills are just as important as yours and

I believe that my bills deserves the consideration of this House just like Mr. Kelleher's bill deserves the consideration of this House. But I say, and I am sure that Mr. Kelleher will be back here next session, some of us won't, but I am sure he will be, and he could, at that time, through the members of this House, take that power away from ten men and put it in this body of 151 ladies and gentlemen. Then you start the ball game off with everybody knowing what the rules are and everybody going by those rules. That is the purpose of making these rules. I would certainly support that kind of motion.

I would certainly like to see the members of this House put in bills anytime they want to, throw the rules right out the window. I like to go by rules of that nature and I would support that kind of legislation. I have some very touchy bills that I would like to put before this legislature that would never be agreed upon by the ten members who now serve in leadership and I don't believe that anybody else's should be. The decision is up to you whether you want to change the rules now.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. Wyman.

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will oppose indefinite postponement of this order this morning.

I have the greatest respect for leadership's decision in this matter, and I understand that they do not want to see a proliferation of bills which are similar. However, I believe that Mr. Kelleher's proposal is different in substance from Representative Benoit's tax proposal, even though Representative Carey said it is not. I believe that Representative Kelleher has the right, as we all do, to bring his case to the people's House and to have it presented and heard. So I would hope that you would oppose indefinite postponement, give Mr. Kelleher an opportunity to have his bill submitted. I do this also in reminding you that leadership has, I believe, on a number of occasions, made a number of decisions which are inconsistent with their decision not to allow this particular bill in, know that they have let legislation in that we have debated for a long period of time just last year, legislation which I do not believe is of an emergency nature.

While I had a bill in which was similar to Representative Kelleher's and I appealed that to leadership, leadership made the decision not to let either Mr. Kelleher's bill in or my bill in, I represent the Representative from Bangor, Mr. Kelleher's, determination and persistence in this matter. It is very clear to me that this bill means a great deal to him. I think that any kind of property tax relief we can grant to the people of Maine would be a very preferable course of action for us to take and I certainly consider the property tax relief for the people of Maine to be of an emergency nature.

I would hope that you would oppose indefinite postponement.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I hope the House is not confused this morning by debate on rule changes. I don't think I have been in a session that the Speaker himself, whether it is John Martin or Dave Kennedy or Dick Hewes or the floor leaders, whether it is Mr. Palmer, Mr. Tierney, Harry Richardson when I first came here — every single day the rules are suspended for the purpose of transferring papers back and forth between the bodies, so don't be taken in by that argument. We suspend the rules to expedite matters everyday.

What I am asking you to do this morning, and the opportunity will be present for anyone else, is to suspend the rules because it is the only method we have, that I have as a legislator, to get a bill in. You know, Mr. Laffin, if you want to get a bill in and you believe in it, I never had

the reputation down here of being a lazy man, I put my name on a document or I get myself behind an idea and I work for it. This is the only method that I have available to me right at the moment, and that is to play upon the best wishes of this body to allow this bill in.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: I do have the greatest respect for the gentleman from Bangor, Mr. Kelleher. I understand his situation very well, but I do stand here to support the motion in indefinitely postpone this order. Very briefly, I do it because I know that there is before Taxation a bill by the gentlewoman from Portland, Ms. Benoit. I know the order has just been passed and if you read it, it is all encompassing, Item 4-1, which says, "Ordered, the Senate concurring, that the Joint Standing Committee on Taxation be directed to report out a bill, not later than 10 days prior to adjournment of the second regular session, to provide for reform of the State tax laws." That is a big umbrella. It does all the gentleman from Pittsfield, the gentleman from Bangor and all others who have ideas on taxation to go before the Taxation Committee to express their ideas and indeed, from that, have the taxation Committee report out a bill which may be satisfactory to many members of this House. If we do not take that route, we go the other route of day after day having other suspension of the rules to allow other bills in, extend the session when this one vehicle can do the whole thing.

I do hope we will indefinitely postpone it, in spite of my great respect for the gentleman from Bangor and also the gentleman from Pittsfield who has a bill of his own, but I think the proper way to go, the logical thing to do is to indefinitely postpone this and go with one all encompassing order together with a bill that Ms. Benoit has before the Taxation Committee at the present time.

The SPEAKER: The Chair recognizes the gentleman from Wells, Mr. Mackel.

Mr. MACKEL: Mr. Speaker, Ladies and Gentlemen of the House: Perhaps I don't understand the issue here, but I don't really see that acceptance of this bill amounts to a deviation from the rules. It is my understanding that one of the rules we have is that if two-thirds of this body desires and accepts this particular bill or any particular bill, that is one valid rule that applies to this House. So I don't see that this is any change to the rules as has been stated by so many people here standing up. This is a legitimate rule. We have an opportunity here to pass judgment as a body on this particular bill.

Personally, I don't care for this particular bill, but as a member of Taxation, I am very willing to hear out what Mr. Kelleher and anyone else has relative to this bill before our committee.

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

Mr. KELLEHER: Mr. Speaker, I would like to pose a question to Mr. Palmer and Mr. Garsoe and Mr. Quinn. If Ms. Benoit's bill is so similar to mine and you let Ms. Benoit's bill in, why didn't you let the gentleman from Pittsfield's bill in?

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I am not qualified to speak for Mr. Palmer or Mr. Quinn, but I do want to relate just some of the atmosphere that we had during the period of time that we were considering what bills would be allowed in. On many occasions we found bills coming in from more than one source that were quite similar and it was our policy to let one in and urge that the others seek cosponsorship in order that the subject be made legitimately available to the session.

We, too, are functioning in our proper

manner, the manner that was ordered for us to function in. And Mr. Mackel has made a very good point that Mr. Kelleher is now functioning in the proper manner by appealing to this House to allow in a bill that we wouldn't. Mr. Kelleher is also accurate when he tells you that for years he has been against this system that we have of allowing leadership — in fact giving leadership the duty to perform in this manner. I just insist, from the short time I have been on this job, that we function in the best interest of every one of us here. To throw this open to any number of bills is going to bring us into a function that I think too often the public views us as being not at all interested in getting in here and getting our work done and getting out.

As you vote on this, I hope you will vote with the knowledge that by virtue of the order this morning and the bills that have been let in, I am confident that any consideration, any concept dealing with taxation in the State of Maine can have its fair hearing and its day in court. So, I hope we will indefinitely postpone this order.

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 SPEAKER: The pending question is on the motion of the gentleman from Waterville, Mr. Carey, that this Order be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEAS: Alopis, Bachrach, Bagley, Beaulieu, Bennett, Benoit, Berry, Berube, Birt, Boudreau, P.; Brown, K. L.; Brown, K. C.; Bunker, Carey, Carroll, Carter, D.; Churchill, Conners, Cunningham, Curran, Davies, Diamond, Dow, Drinkwater, Durgin, Dutremble, Fenlason, Fowlie, Garsoe, Gill, Goodwin, H.; Gould, Higgins, Howe, Huber, Hutchings, Immonen, Jackson, Laffin, LaPlante, Lewis, Lizotte, Locke, Loungee, Lunt, Lynch, MacEachern, Mahany, Masterman, Masterton, Maxwell, McBreairty, McMahon, Moody, Morton, Najarian, Nelson, N.; Palmer, Peltier, Perkins, Post, Quinn, Rideout, Sewall, Silsby, Sprowl, Tarbell, Tarr, Teague, Theriault, Teirney, Torrey, Tozier, Twitchell, Violette, Whittemore, The Speaker

NAYS: Ault, Austin, Biron, Blodgett, Boudreau, A.; Brenerman, Burns, Carrier, Chonko, Connolly, Cote, Cox, Dexter, Dudley, Elias, Flanagan, Gillis, Goodwin, K.; Gray, Green, Greenlaw, Hall, Henderson, Hickey, Hobbins, Hughes, Hunter, Jacques, Jalbert, Jensen, Joyce, Kany, Kelleher, Kerry, Kilcoyne, Mackel, Marshall, Martin, A.; McHenry, McPherson, Mitchell, Nadeau, Nelson, M.; Norris, Paul, Peakes, Pearson, Peterson, Plourde, Prescott, Raymond, Rollins, Shute, Smith, Spencer, Stover, Strout, Talbot, Truman, Valentine, Wilfong, Wood, Wyman

ABSENT: Bustin, Carter, F.; Clark, Devoe, Kane, Littlefield, McKean, Mills, Stubbs, Trafton, Tyndale

Yes, 77; No, 63; Absent, 11.

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

An Expression of Legislative Sentiment (H. P. 2025) recognizing that: JOHN J. GRIFFIN of Scarborough, in recognition of his acts of heroism in the line of duty, has been named a "Fireman of the Year" by the Cumberland County Firemen's Association.

Presented by Mrs. Beaulieu of Portland. The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 2026) recognizing that: CARL BOOTH of Portland, in recognition of his acts of heroism in the line of duty, has been named a "Fireman of the Year" by the Cumberland County Firemen's Association.

Presented by Mrs. Beaulieu of Portland. The Order was read and passed and sent up for concurrence.

#### House Reports of Committees Ought Not to Pass

Mr. Goodwin from the Committee on Health and Institutional Services on Bill "An Act Relating to Transfer of Property for Certain Recipients of Medical Care" (H. P. 1944) (L. D. 2023) reporting "Ought Not to Pass"

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

#### Leave to Withdraw

Mr. Curran from the Committee on State Government on Resolve, Authorizing the Atlantic Sea Run Salmon Commission to Grant Certain Easement on State Land to the Machias First Corporation (H. P. 1950) (L. D. 2029) reporting "Leave to Withdraw"

Report was read and accepted and sent up for concurrence.

#### Consent Calendar

##### First Day

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

(H. P. 1926) (L. D. 1987) Resolve, Authorizing the Sale by the Department of Mental Health and Corrections of a Certain Parcel of Land Adjacent to the State Prison in Thomaston to Allan L. Robbins and Verla W. Robbins. Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-967)

(H. P. 1960) (L. D. 2043) Resolve, Authorizing the Director of the Bureau of Public Lands to Lease the Right to Lay and Maintain a Certain Right-of-way for forty years (Emergency). Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-968)

(H. P. 1879) (L. D. 1933) Bill "An Act to Establish the Maine-Canadian Legislative Advisory Commission". Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-969)

(H. P. 1945) (L. D. 2024) Bill "An Act to Empower Administrative Hearing Officers to sign Fair Hearing Decisions". Committee on Health and Institutional Services reporting "Ought to Pass"

(H. P. 1857) (L. D. 1924) Bill "An Act Concerning Brake Requirements on Agricultural Vehicles". Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (H-971)

(H. P. 1918) (L. D. 1979) Bill "An Act to Clarify the Statute Relating to Attorneys so that Nonattorneys may Appear in Small Claims Court on Behalf of Corporations". Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-972)

No objections being noted, the above items were ordered to appear on the Consent Calendar of January 24, under listing of the Second Day.

#### Consent Calendar

##### Second Day

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

(H. P. 1910) (L. D. 1971) Bill "An Act to Clarify Reporting Requirements under the Campaign Finance Law and to Correct Other

Oversights in that Law" (C. "A" H-966)

No objections having been noted at the end of the Second Legislative Day, the House Paper was passed to be engrossed and sent up for concurrence.

The following papers appearing on Supplement No. 1 were taken up out of order by unanimous consent:

#### Passed to Be Enacted

##### Emergency Measure

An Act Providing that Student Scholarships Under the Maine Student Incentive Scholarship Program Shall Not be Lowered from one School Year to the Next and Appropriating Funds to Carry Out that Intent (S. P. 627) (L. D. 1959)

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

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Pearson.

Mr. Speaker, Ladies and Gentlemen of the House: May I have a short explanation of this particular measure?

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: There are two student assistance programs, one that we are moving towards and the other that we are phasing out.

This extends the bill in support for students in private colleges that have undertaken a course of study and allows them to complete it without being deprived of the assistance that they thought they were going to have during their four years. It is a matter of not pulling the rug out from underneath the students that have embarked on a course of study, many of whom would have to drop out if it wasn't continued.

The SPEAKER: This being an emergency measure, it requires a two-thirds vote of all the members elected to the House. All those in favor of this Bill being passed to be enacted as an emergency measure will vote yes; those opposed will vote no.

A vote of the House was taken. 134 having voted in the affirmative and one in the negative, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Enactor

##### Tabled and Assigned

An Act to Provide Transition Provisions Covering the Recent Amendments to Article 9 of the Uniform Commercial Code (H. P. 1956) (L. D. 2038) (S "A" S-430)

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

(On motion of Mr. Tierney of Lisbon Falls, tabled pending passage to be enacted and tomorrow assigned.)

#### Enactor

##### Tabled and Assigned

An Act Concerning the Discount Fact and Capitalization Rate in the Tree Growth Tax Statutes (H. P. 1882) (L. D. 1936)

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

(On motion of Mrs. Post of Owl's Head, tabled pending passage to be enacted and specially assigned for Wednesday, January 25.)

#### Finally Passed

##### Emergency Measure

RESOLVE, to Appeal the Decision of the State Claims Board Regarding Property Damage Suffered by Phillip G. Rotolo of Portland Because of a Resident of the Maine Youth Center (H. P. 1892) (L. D. 1949)

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 members elected to the House necessary, a total was taken. 128 having voted in favor of same and five against, the Resolve was finally passed, signed by the Speaker and sent to the Senate.

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**Finally Passed**  
**Emergency Measure**

RESOLVE, to Amend the Apportionment of Multimember Districts of the House of Representatives into Single Member Districts (H. P. 1906) (L. D. 1967)

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

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

Mr. CONNOLLY: Mr. Speaker, I would like to pose a question to someone who might be knowledgeable. On the Supplement, it says there is a committee amendment, H-953. I didn't have that in my book, I thought I might have misplaced it, so I sent out for a copy of that amendment and it doesn't relate to the bill. I wonder if there is an amendment on this particular bill and if so, could someone explain what it deals with?

The SPEAKER: The Chair would advise the gentleman from Portland, Mr. Connolly, that the calendar is in error — there is no amendment on the bill. The bill is in its original form, L. D. 1967.

This being an emergency measure, it requires a two-thirds vote of all the members elected to the House. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

128 having voted in the affirmative and one in the negative, the Resolve was finally passed, signed by the Speaker and sent to the Senate.

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**Passed to Be Enacted**

An Act Relating to Joint Committee Between George Stevens Academy and Nearby Towns (H. P. 1890) (L. D. 1947)

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.

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**Orders of the Day**

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

Bill, "An Act to Increase the Bonding Limit of the Maine State Housing Authority" (Emergency) (H. P. 1880) (L. D. 1934)

Tabled—January 19, 1978 by Mr. Kelleher of Bangor.

Pending—Adoption of House Amendment "A" (H-965)

Thereupon, House Amendment "A" was adopted.

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

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

Joint Order—Relative to Amending Joint Rule 24 (H. P. 2020)

Tabled—January 20, 1978 (Pursuant to the Rules)

Pending—Passage.

Thereupon, the Order received passage and was sent up for concurrence.

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

Bill, "An Act Relating to Certificate of Need" (S. P. 652) (L. D. 2013) (S "B" S-433)

Tabled—January 20, 1978 by Mr. Tierney of Lisbon Falls

Pending—Passage to be Engrossed.

Mr. Brenerman of Portland offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-973) was read by the Clerk.

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

Mr. BRENERMAN: Mr. Speaker and Members of the House: This amendment closes a large loophole in the certificate of need legislation which we passed last week and places physicians' equipment purchases in line with

similar purchases for hospitals and nursing homes at \$150,000.

The other addition in this amendment is that this equipment would only be that which is not ordinarily found in a physician's office as determined by the Department of Human Services and the Health Systems Agency.

As L. D. 2013 stands without this amendment, a hospital can be turned down for a certificate of need; yet, a doctor or a group of doctors can circumvent the system and buy the same piece of expensive equipment. That purchase would be one that the state health people had determined to be not necessary in that particular area. The cost of that purchase in physicians fees and third party reimbursements would be borne by all of us. We cannot afford these unnecessary expenses for medical offices.

The second and third sections of this amendment say that physician's cannot be enjoined from using uncertified equipment. A section already in the bill says, however, that reimbursement can be withheld from doctors who buy expensive pieces of uncertified equipment.

The SPEAKER: The Chair recognizes the gentlewoman from South Portland, Mrs. Gill.

Mrs. GILL: Mr. Speaker, Ladies and Gentlemen of the House: Here is another amendment that is unneeded regulation. We talk about we do not like to regulate unless it is absolutely necessary.

This committee, Health and Institutional Services, heard much testimony through the past year on this certificate of need bill, and there was absolutely no indication that there was a need to place physicians in this bill for any reason, whether it be equipment ordinarily in the office that they would need or whether it was equipment out of the ordinary. As far as I am concerned, no regulations should be put into effect unless the need has been shown, and there has been no need shown that this is necessary at all. This is another way to circumvent the majority report.

This was talked about in committee with \$150,000 price on it and we, the majority of us, decided that it was not needed, so we came out with the majority report which excluded physicians completely and now they are trying to circumvent this by placing an amendment in that would include the physicians again. I would urge that you vote against this.

Mr. Masterman of Milo requested a roll call.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Pearson.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: This is a no-win situation for almost every legislator in here. You see, this is what happens, at least as far as I can see or understand it. If you vote for this amendment, hardly anybody will know that you did it; if you vote against this amendment, the doctors will be pleased and you will please a very small group of people in the state. If you vote for the amendment that restricts them to \$150,000, you will have had at least taken a very small step toward keeping your insurance premiums for every one of your constituents, not just for some but for every one of them, lower than it normally would have been if you allow them to buy anything they want without any kind of a plan.

This morning when I was coming to the legislative session and I was driving down from the Senator Motel, I was listening to the news. On the news came a press release from one of the Republican gubernatorial candidates. It was issued from Nobleboro. In it is said, the Republican Party had an image problem of being a party of "fat cats" and "special interest" and they had to get rid of that image — this is a special interest bill. If you defeat this amendment, you would be voting for the special interest. You have a chance to start changing that image right now and I think you should do it.

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

Mr. WOOD: Mr. Speaker, Ladies and Gen-

tlemen of the House: This amendment does not restrict the doctors in any way that I can see. All that it says is, if they choose to purchase a piece of equipment that costs \$150,000 and they want to get reimbursed by treating patients that are receiving through the third party payment, the state will not pay for it, but if they do not choose to treat those patients, if they choose to treat their own patients that pay out of their pockets, they can have it. We are not penalizing them in any way. We are just saying that if they are going to use third party payments and third party payments mean my constituents, then they are going to have to have some kind of justification for it.

We talk about not regulating doctors, but I would like to tell you how my constituents are regulated. They are regulated by their pocketbooks. I have one constituent who passed away recently. It was not from old age, it was from overwork. He passed away at 50 years of age with a heart attack. I called his wife the other night and she had \$4 in her pocket at that time. This is the type of regulation my people face, lack of money, and if in this way we can start redistributing services and costs, then I am for it, I am for that type of regulation.

I serve on the Public Utilities Committee and we deal with regulation everyday and what you realize is that you cannot regulate unless all parties are involved. You cannot regulate the medical profession if you leave out part of the medical profession. Last year, I talked about custard pies and I think it is even more appropriate now. If we try to regulate the distribution of health care and health costs without the doctors, we are trying to sew buttons on a custard pie.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one fifth of the members present and voting. Those in favor of 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 Chair recognizes the gentlewoman from Cape Elizabeth, Mrs. Masterton.

Mrs. MASTERTON: Mr. Speaker, Ladies and Gentlemen of the House: I am fat, I am forty and I am a Republican. Nevertheless, I am going to vote for this particular amendment. I voted against the \$75,000 limitations for doctors because I felt that that was needless. I think we have now gotten this amount to the point where it will be very rarely applied. I talked with a couple of doctors in my community and one of them is very much against this foot-in-the-door regulation, as he called it. The other one explained to me quite fully the types of equipment that we are talking about that a physician might want to have in his office. For example, an X-ray facility for the practitioner to have in his office and perhaps the ability to develop it there, that would cost \$25,000 to \$35,000. Pathologists might need expensive equipment over this amount of \$150,000, and perhaps a radiologist would, but other than these two categories, it seems to me that whatever other equipment a doctor needs in his office will be well below this \$150,000 limit.

I like my doctor friends; I trust them; I understand their concerns. Everyone is screaming about regulations but many other professional fields are regulated also. In fact, I think probably there are only the lawyers left that are not regulated by government. I think that in voting on this bill, we do have to think about our constituents, all of them, and their spiraling costs of medical care, and in that interest, I am going to vote for this amendment. We are merely putting the doctors on notice.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and

Gentlemen of the House: I feel that I must respond a little bit to my good friend from Old Town and I will send him, compliments of Lin Palmer, the full text of the statement that I made in which I not only said what he said I said, but I also said that government had become very brash and very arrogant, that we had indeed become a little bit closer, a little friendlier, a little less arrogant and a little bit more competent. As a result of this arrogance, we have foisted upon the people of Maine for the last 10 or 15 years a plethora of rules and regulations unbelievable in the history of this state. We have encroached upon the personal lives of people and this is one more chance for us to do it again; special interests—nothing. It is just one more example of over reaction to a single problem in this state so I just wanted to make that clear and I would be glad to elaborate but I think that is enough for now.

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

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: If this amendment passes and if the physicians of this state have a hard time coping with the regulations which would come out of it, I know some very good lawyers that they could see that could help them with the regulations.

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Najarian.

Mrs. NAJARIAN: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to call to your attention the fact that Maine spent \$600 million on medical care last year, that our medical care program increased 46 percent this biennium over the last biennium, in spite of the fact that there are fewer recipients on medical care than there were the previous biennium and in spite of that fact, there are many people in Maine who are not poor enough to receive any state help for their medical care and who are not employed by anyone who gives them help with private health coverage.

I know that it is very dramatic to say to the people that you are going to give them a tax rebate and everybody is in favor of that, but here is a chance for us to keep taxes from increasing in this very important area.

I would just point out that this is only equipment over \$150,000 which would normally be in a hospital or which would be denied to a hospital, and the way the bill is written, a physician or anybody else could go out and purchase that same equipment without justifying the need. He could still do it, even with this law, but he could not expect state reimbursement. Right now, the commissioner has not authority not to make the payments or he is liable to suit if he does not make those payments. This is a chance to keep tax costs from increasing so it is not visible right now but it should help down the road, and I hope you will support the amendment.

The SPEAKER: The Chair recognizes the gentleman from Old Orchard Beach, Mr. Kerry.

Mr. KERRY: Mr. Speaker, Ladies and Gentlemen of the House: I supported the Minority Report out of our committee and I support this amendment. I went through a personal metamorphosis as well with regards to supporting this particular amendment.

Seventy-five and one hundred fifty thousand dollars was considered at length in our committee and it was considered mostly by the physicians, by the hospitals, by the vested interests, as we say. This has a negative connotation, but the whole point is, the only people we never really heard from was the single constituent, the individual families who have to pay for these bills.

I did not support at first the \$75,000 because I did see that there might be some infringement upon the so-called free enterprise system, but in this instance, this is not the case. This is only hitting the very highest costing materials in terms of equipment. The physicians have lobbied

against this; the hospitals have lobbied against it and our committee has gone over it many times and the need has been demonstrated. You only have to look at the rising health costs in this country and this state to realize that it is there.

This is a very simple amendment, to hit the loopholes. The key thing is that this legislature has now the first chance to stem the tide of rising costs of health care in the State of Maine and if you exclude the physicians, you exclude the most important part, because they are intricately related into the hospitals, even group practices or whatever you have.

With regards to what Representative Gill and Representative Palmer mentioned, with the greatest respect for the medical community and their representatives here at the legislature, namely, the lobbyists, I think they have convinced many people on the committee that there has been a need for a slowdown, but right now this has gone too far. I think we have been more than just. This, I believe, is a very reasonable compromise to hit the very highest health care costs.

The SPEAKER: A roll call has been ordered. The pending question before the House is on the adoption of House Amendment "B". Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEAS: Beaulieu, Bennett, Benoit, Berry, Biron, Boudreau, A.; Brenerman, Brown, K. C.; Burns, Carey, Carrier, Carroll, Carter, D.; Chonko, Churchill, Connolly, Cox, Curran, Davies, Diamond, Dow, Dutremble, Elias, Fenlason, Flanagan, Goodwin, H.; Goodwin, K.; Gray, Greenlaw, Hall, Henderson, Hickey, Hobbins, Howe, Hughes, Immonen, Jacques, Jensen, Joyce, Kerry, Kilcoyne, Laffin, LaPlante, Lizotte, Lynch, MacEachern, Mahany, Marshall, Martin, A.; Masterton, McHenry, McMahon, Mitchell, Moody, Nadeau, Najarian, Paul, Peakes, Pearson, Plourde, Post, Prescott, Quinn, Raymond, Rideout, Spencer, Stover, Strout, Talbot, Tierney, Truman, Twitcheil, Valentine, Wilfong, Wood, Wyman, The Speaker.

NAYS: Aloupis, Ault, Austin, Bachrach, Bagley, Berube, Birt, Blodgett, Boudreau, P.; Brown, K. L.; Bunker, Connors, Cote, Cunningham, Dexter, Drinkwater, Dudley, Durgin, Fowlie, Garsoe, Gill, Gillis, Gould, Green, Higgins, Huber, Hunter, Hutchings, Jackson, Jalbert, Kany, Kelleher, Lewis, Littlefield, Locke, Lougee, Lunt, Mackel, Masterman, Maxwell, McBreairty, McPherson, Morton, Nelson, M.; Nelson, N.; Norris, Palmer, Peltier, Perkins, Peterson, Rollins, Sewall, Shute, Silsby, Smith, Sprowl, Stubbs, Tarbell, Tarr, Teague, Theriault, Torrey, Tozier, Trafton, Violette, Whittemore

ABSENT: Bustin, Carter, F.; Clark, Devoe, Kane, McKean, Mills, Tyndale

Yes, 77; No, 66; Absent, 8.

The SPEAKER: Seventy-seven having voted in the affirmative and sixty-six in the negative, with eight 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 now move that we reconsider our action and hope you all vote against me.

The SPEAKER: The gentleman from Lisbon Falls, Mr. Tierney, having voted on the prevailing side, now moves that the House reconsider its action whereby House Amendment "B" was adopted. Those in favor will say yes; those opposed will say no.

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

Thereupon, the Bill was passed to be engrossed as amended by Senate Amendment "B" and House Amendment "B" in non-concurrence and sent up for concurrence.

By unanimous consent, all preceding enact-

tors requiring Senate concurrence were ordered sent forthwith.

(Off Record Remarks)

On motion of Mr. Churchill of Orland, Adjourned until nine-thirty tomorrow morning.