

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Eighth  
Legislature***

OF THE

STATE OF MAINE

**Volume I**

**January 5, 1977 to May 25, 1977**

KJ PRINTING  
AUGUSTA, MAINE

**SENATE**

Monday, May 16, 1977

Senate called to Order by the President.  
Prayer by the Honorable Richard H. Pierce of Waterville.

Mr. PIERCE: Almighty Father, we ask you to look upon this Senate with favor, we ask you to endow us with wisdom, confidence, compassion and responsibility in order that we may carry out the duties with which we are entrusted.

May we put aside decisions based on party or personal prejudice, keeping in mind instead that it is the interests of all the people of this State that are important.

May we be mindful of this always and strive to do our very best.

Amen.

Reading of the Journal of yesterday.  
(Off Record Remarks)

**Papers from the House**  
**Joint Resolution**

A Joint Resolution in Memoriam:  
WHEREAS, the Legislature has learned with deep regret of the death of Stephen R. Buzzell, former Mayor of Old Town. (H. P. 1558)

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

**Communications**  
**House of Representatives**

May 13, 1977

Honorable May M. Ross  
Secretary of the Senate  
108th Legislature  
Augusta, Maine

Dear Madam Secretary:

The House today voted to Insist and Join in a Committee of Conference on Bill "An Act to Remove the Manufacturer's Excise Tax on Tires from the Sales Tax" (H. P. 339) (L. D. 430)

Respectfully,

Signed:

EDWIN H. PERT  
Clerk of the House

Which was Read and Ordered placed on file.

**Committee Reports**  
**House**

The following Ought Not to Pass report shall be placed in the Legislative files without further action pursuant to Rule 20 of the Joint Rules:

Bill, "An Act Closing Certain Clamming Areas to Wormers or Worm Diggers." (H. P. 945) (L. D. 1140)

**Leave to Withdraw**

The Committee on Marine Resources on, Bill, "An Act to Increase the Amount Allocated to Research and Development from the Maine Coastal Protection Fund." (H. P. 880) (L. D. 1071)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Marine Resources on, Bill, "An Act to Aid the Maine Seafood Industry." (H. P. 1280) (L. D. 1505)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Marine Resources on, Bill, "An Act to Prohibit Purse Seining for Menhaden, that is, Pogies, in the Penobscot River." (H. P. 1150) (L. D. 1357)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Marine Resources on, Bill, "An Act Concerning the Availability of Results of Tests on Polluted Shellfish." (H. P. 997) (L. D. 1238)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Taxation on, Bill, "An Act to Lower the Uniform Property Rate to 6½ Mills." (Emergency) (H. P. 887) (L. D. 1096)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Reports were Read and Accepted, in concurrence.

**Ought to Pass**

The Committee on Legal Affairs on, RESOLVE, Designating Weskeag Marsh at Thomaston as the "R. Waldo Tyler Wilderness Area." (H. P. 1533) (L. D. 1765)

Reported that the same Ought to Pass.

Comes from the House, the Resolve Passed to be Engrossed

The Committee on Taxation on, Bill, "An Act to Exempt from the Sales Tax all Equipment and Supplies used to Diagnose or Treat Diabetes." (H. P. 1207) (L. D. 1435)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

Which Reports were Read and Accepted, in concurrence, and the Bill and Resolve, Read Once and Tomorrow Assigned for Second Reading.

The Committee on Local and County Government on, Resolve, for Laying of the County Taxes and Authorizing Expenditures of York County for the Year 1977. (Emergency) (H. P. 1531) (L. D. 1757)

Reported (pursuant to Joint Order, H. P. 138) that the same Ought to Pass.

Comes from the House, the Resolve Passed to be Engrossed as amended by House Amendment "A" (H-321).

Which Report was Read and Accepted in concurrence, and the Resolve Read Once. House Amendment "A" was Read and Adopted, in concurrence, and the Resolve, as amended, Tomorrow Assigned for Second Reading.

**Ought to Pass — As Amended**

The Committee on Education on, Bill, "An Act Relating to the Spending Ceiling for Education Purposes." (Emergency) (H. P. 968) (L. D. 1165)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-282).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "C" (H-307) thereto.

Which Report was Read and Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read. House Amendment "C" to Committee Amendment "A" was Read and Adopted in concurrence. Committee Amendment "A" as amended by House Amendment "C" thereto was Adopted, in concurrence, and the Bill, as amended, Tomorrow Assigned for Second Reading.

**Ought to Pass in New Draft**

The Committee on Public Utilities on, Bill, "An Act to Amend the Charter of the Portland Water District." (H. P. 1003) (L. D. 1204)

Reported that the same Ought to Pass in New Draft under same title. (H. P. 1556) (L. D. 1775)

Comes from the House, the Bill, in New Draft, Passed to be Engrossed.

Which Report was Read and Accepted in concurrence, and the Bill, in New Draft, Read

Once and Tomorrow Assigned for Second Reading.

**Divided Report**

The Majority of the Committee on Labor on, Bill, "An Act Concerning the Payment of Workmen's Compensation Pending an Appeal to the Supreme Judicial Court." (H. P. 281) (L. D. 375)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-269).

Signed:

Senator:

PRAY of Penobscot

Representatives:

DUTREMBLE of Biddeford  
ELIAS of Madison  
MCHENRY of Madawaska.  
LAFFIN of Westbrook  
BUSTIN of Augusta  
FLANAGAN of Portland  
BEAULIEU of Portland

The Minority of the same Committee on the same subject matter Reported that the same Ought Not to Pass.

Signed:

Senators:

McNALLY of Hancock  
REDMOND of Somerset

Representatives:

PELTIER of Houlton  
LEWIS of Auburn  
TARR of Bridgton

Comes from the House, the Majority Report Read and Accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-330) thereto.

Which Reports were Read.

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

Mr. McNALLY: Mr. President, I move the acceptance of the Minority Ought Not to Pass Report, and I would like to speak to my Motion.

The PRESIDENT: The Senator has the floor.

Mr. McNALLY: Mr. President, this Bill has come to us with two Amendments on it, it comes with a Committee Amendment and with a House Amendment to make it a little bit easier than what it is.

The Bill says that if a person is injured and if the Industrial Accident Commission will order a payment of workmen's compensation pending an appeal to the Maine Supreme Judicial Court, that further if an employer appeals an Industrial Accident Commission decision to the Supreme Judicial Court, the employer need not pay the award to the injured employee until after the Court has rendered a final decision.

This delay puts an inordinate amount of pressure on the injured employee to rush into lump sum payments, instead of waiting for the appeal to be decided.

This Bill will enable the Industrial Accident Commission to relieve any inordinate pressure towards unwarranted compromise.

At the same time, the Bill provides that the Commission's power is discretionary, and that the Commission in its discretion can stop any abuse on the part of the employee by refusing to order payment of workmen's compensation pending an appeal.

Now the Committee Report says that, although it does not seem quite so harsh, that the purpose of this Amendment is to make it mandatory that payments awarded to an injured employee by the Industrial Accident Commission will begin whether or not the Commission's decision is being appealed to the Law Court. This Amendment also changes the fine for failure to make payments from a fixed fine of \$500.00 to \$25.00 a day, which is quite a little money that could be in here.

Now the next Amendment, the House Amendment to it says in the Statement of Fact that

this Amendment insures basic fairness to the employer under the Bill, and the Bill now states that if the employer appeals the decision of the Commission awarding compensation to the employee, the employee must be paid compensation during the appeal. The Amendment provides equal fairness to the employee by stating that if, after a Commission review of the employee's incapacity, the Commission denies the employee any further compensation, payment stops from the date of the Commission's order, even though the employee appeals the order in the Law Court.

But what the law says right now, that in a case that has gone to the Law Court, that the present law imposes a 10 percent interest on the Commission's decree in case it is awarded for the Defendant. Now this Bill would require immediate payment to begin, even if the appeal has just been taken, and even if the employee goes back to work or his injury ends, there is no way to stop these payments.

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

Mr. PRAY: Mr. President and Members of the Senate: I do not think that I could do a better job than the good Senator from Hancock, Senator McNally, has done on explaining the Bill, and telling you why you should vote against his Motion.

Let me just point a few things as to what he has said and what these Bills do. Basically this Bill would state that if the Industrial Accident Commission made a decision on an appeal, on a case, on a claim, that the injured individual should have workmen's comp., and the employer takes it to Court, that on the discretionary powers of that Commission they can require that employer to pay that fee, the settlement until such time as the case goes before the Court and a decision is made.

At the Committee hearing we had several individuals, both for the Bill and oppose the Bill, but most interesting was John Keane of the Maine Industrial Accident Commission came to the hearing, and came to our work sessions and worked with us on this Bill to great detail, so that the Committee Amendment was drafted, and eventually, as I understand it, he worked on the House Amendment also.

I think that the Bill is asking for a very fair treatment to the individual that is injured at work, and that settlement is only going to come after the Industrial Accident Commission makes the decree that the individual was injured at work and deserves the payment.

What the House Amendment does is it makes it an equitable thing to the employer. It gives him something that he does not have in the law at present, so I think between the Committee Amendment and the House Amendment, this is coming to a fine piece of Legislation and that it deserves the support of this Body.

I would request a Division, and urge you to vote against the Minority Ought Not to Pass Report.

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

Mr. SPEERS: Mr. President, I would like to correct, I think, what may be a misimpression with regard to the statements of the last speaker, the good Senator from Penobscot, Senator Pray, when he states that the House Amendment places something in the law which the employer presently does not have.

I have not looked at this piece of legislation prior to this morning, or the Amendment prior to this morning when it came before us, but as I read the House Amendment, and I stand to be corrected by the good Senator if I am not reading it correctly, but as I read the House Amendment it states simply that if the Industrial Accident Commission determines after a fair hearing and presentation of the case by attorneys for the employee as well as the employer, if the Commission determines that

there is no claim under the Industrial Accident Commission jurisdiction, and under the workmen's compensation law, then surprisingly enough the employer does not have to pay the employee.

Now I do not see where that is such a radical change. The radical change would come in the implication that even though the Industrial Accident Commission determines that there is no claim, the implication that perhaps some way, some how the employer would still have to pay the employee.

As I read the House Amendment, this is simply a clarification of the Committee Amendment, whereby the Committee Amendment could be interpreted to read that if there is no claim, if the Industrial Accident Commission determines that there is no claim under the workmen's compensation law, that if the employee appeals that decision to the Law Court, that the employer would still be liable to pay the employee, which, of course, is a little contrary to anything that we have in the law at the present time.

While I commend the clarification of the House Amendment to the Committee Amendment, I have one other question with regard to the Committee Amendment that I would ask the good Senator or anyone else to answer, and that is what happens if after the Industrial Accident Commission hearing and the Commission determines that there is a claim and the employee must be paid, under this particular Bill and under the Amendment process, the employer must begin to make those payments to the employee, but if the employer feels that there has been a problem with the law or a mistake in the interpretation by the Commission of the law and he appeals that decision to the Law Court, during the pendency of that appeal there is the payment being made to the employee. But what happens if the Law Court determines that indeed there had been a mistake in the law by the Commission and it overturns the Commission's ruling, and states that there was a mistake and the employee should not have been receiving that compensation. Under the terms of this law or any existing law, does the employee then have to pay that money back to the employer or the insurance company? I hope that we may be able to get an answer to that specific question.

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

The Chair recognizes the Senator from Hancock, Senator McNally.

Mr. McNALLY: Mr. President and Members of the Senate: I am not an attorney, to start with, and I only know what occurred during the hearing.

In the first place, I understand that the Supreme Judicial Court, with all of the work that it has, sometimes that these appeals go on from a year to a year and a half, and we also had testimony given to us that in no way is there anything in this Bill which says that the employee has got to pay back any money, period, that he has received. He has just been lucky that he has got it, and supposing that he has been injured, he probably would not have been able to work part of the time, or maybe chose not to work part of the time, so it looked to me like it was just simply something that the employer was going to be hurt quite badly by.

That is why I voted the Ought Not to Pass, and think it is the proper thing to do with this particular Bill, because it is already taken care of in case that the Law Court decides for the employee, there is 10 percent interest from the time that the decision was made by the Industrial Accident Commission right up to the present time when that the Law Court has awarded the decision.

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

Mr. PRAY: Mr. President and Members of

the Senate: I really cannot directly and in all honesty answer the question posed by the good Senator from Kennebec, Senator Speers, but it would be my belief that if the Court made a ruling, that ruling would be binding. Now I may be wrong in that.

But let us talk about some fairness. I have a constituent of mine that I have worked with. He has a case that has been pending to the Industrial Accident Commission since 1970. And this individual here, true he will collect 10 percent if he should win his case, if he should live long enough.

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

Mr. FARLEY: Mr. President and Members of the Senate: I would like to pose a question to the previous speaker. Are we talking here for self employers under workmen's compensation, or all those covered under workmen's compensation.

The PRESIDENT: The Senator from York, Senator Farley, has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President, from the testimony that we received at the hearing and looking at the statutes that I have now before me, I would suspect that it would be all individuals under the workmen's comp. law, not just self employed individuals.

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

Mr. FARLEY: Mr. President and Members of the Senate: I would urge that we defeat the Motion to accept the Minority Ought Not to Pass Report here.

My experience with workmen's comp., I have worked for businesses that, as we all know, have to come under workmen's comp. In several cases the employer-employee have a good working relationship. The man does get an injury, which the employer knows happens on the business, but he turns it over to his insurance company. And what happens eventually is the employer himself is hoping that the employee gets compensated, but the insurance company, for one reason or another, wants to hold it up. The employer can see his own employee a year or year and a half, and sometimes two years being out of work and without compensation of any type. I would think what we are trying to get here is the insurance company, you know, to pay this man when the Commission says it is due him, and regardless of the appeal process.

I think for the sake of the employee and the employer both in the case, I would urge you to defeat the Motion on the floor, and then accept the Majority Ought to Pass Report.

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

Mr. REDMOND: Mr. President, this Bill would require the insurance company to pay compensation to the injured pending the results from his Court appeal.

Now it seems to me that the problem really is not with the existing workmen's comp. law. The problem is with the Industrial Accident Commission and/or the Courts. They take a year or a year and a half before ruling. I think we should address where the problem is, and I hope that the Senate will vote to table this Bill indefinitely.

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

Mr. PRAY: Mr. President, I request permission to address the Senate a fourth time.

The PRESIDENT: The Senator from Penobscot, Senator Pray, requests permission to address the Senate for a fourth time. The Chair hears no objection. The Senator may proceed.

Mr. PRAY: Thank you, Mr. President. Mr. President and Members of the Senate: As I look at this Bill and listen to some of the debate that

has gone on, and particularly the last speaker, I become a little bothered as to where the blame should be laid.

This Bill only addresses the issue after the Commission has met, the Commission which we have established by Legislative Act, they have met, reviewed the case and made the decision that this individual should receive compensation, and then the employer, as the good Senator from York, Senator Farley, pointed out, the insurance company takes it to Court. Now my personal experience with several cases is that it is a lengthy process, particularly on the individual that is injured, and after it has already been decided once by the Industrial Accident Commission that this person was injured on work and deserves compensation, but this individual could be delayed to a period of time which he may finally decide to make a settlement with the insurance company, because the one case that I am presently working with with the constituent, it is in its seventh year now, and if this individual's wife was not working, he would be in a definite bind for an income to support himself and his wife and to make ends meet.

I think that this Bill is fair. It is asking that the companies make the payments only after that Commission has already made a decision that that individual was injured in his occupation.

I would urge that we defeat this Motion, and thus move the Majority Ought to Pass Report.

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

Mr. SPEERS: Mr. President, I am really sorry that I have not had the question that I posed answered directly. I think, however, that it has probably been answered indirectly, in that the money is not returned to the company or the insurance company, or whoever would be responsible, the self insurer, whoever would be responsible for making the payments in the first place.

Now I frankly have a very great concern for those who have to undergo the appeal process, because it sometimes does take a particularly lengthy period of time to get a hearing before the Supreme Court, and then to have the Court meet and decide the particular issue of law.

I would like to point out to the Senate that there are not very many cases, however, which are actually appealed to the Law Court, compared to the very, many, many cases that go to the Industrial Accident Commission for a decision, and it is even more rare for an appeal to take the period of time that the good Senator from Penobscot, Senator Pray, has referred to, and I am not at all familiar with the particular case that he is suggesting or mentioning, but I would call the attention to the Senate that that particular case must involve some particularly difficult legal issues for it to take that particular period of time.

Now were the law to be in effect, this individual would have been receiving compensation for the past seven years, all during this pendency of the appeal, and if logically we could follow through, and let's just take the instance that the Court ultimately determines on the appeal that he was not entitled to that compensation, that there was in fact not a claim, a compensable claim, that occurred back in 1970 or whenever it was that this claim arose, would that individual then be compelled by the Court to pay back all of that money that he would have been paid over the past seven years?

And I would say to you that that individual would be in a worse position if he had to be compelled to pay back the several thousands of dollars that that would have amounted to than he would be under his current situation.

Now if we take the converse of that and say that regardless of the outcome of the appeal, that the Supreme Court may not compel that

money to be repaid, even though the Court may find that there was not a compensable claim, that there were no merits to the particular claim under the law as we have set it up under the laws of the State of Maine, if we take the converse and say that that money should not be paid back, in effect what we are doing is setting up the Industrial Accident Commission, which, although it is a quasi-judicial body, it is not a Court of law, the Commissioners are not judges, they are practicing attorneys who are also Industrial Accident Commissioners — we are setting up this quasi-judicial body as a Court of last resort with regards to payment of compensation under the Industrial Accident Commission and the Workmen's Compensation Law. And we are in effect saying that although there is appeal under the law to the Supreme Court of the State of Maine, that that appeal has no effect whatever on the orders of this Commission to pay compensation, and if the appeal were to take several years, as this one particular case obviously has, then for those several years the Court of last resort is the Industrial Accident Commission — not the District Court of the State, not the Superior Court of the State, and not the Supreme Court of the State, but rather the Industrial Accident Commission itself.

I have some very real problems with this Bill the way that it is written, and with the Amendments the way that they are written, and I guess the Committee Amendment is now the Bill itself, and I really do request some further explanation as to what happens in the case where the Supreme Court determines that there was not a claim, does the individual employee become faced with the necessity then of returning in many cases the many thousands of dollars which he would have received since the order of the Industrial Accident Commission.

(Off Record Remarks)

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

Mr. FARLEY: Mr. President and Members of the Senate: The Senator from Kennebec, Senator Speers, has brought up some problems with this Legislation; however, it is not something we cannot, I am sure, solve if we let this Bill go to Second Reader today by defeating the Motion on the floor, and then we can address it tomorrow with either an Amendment to satisfy at least some of them who do have problems with it in this body here.

The PRESIDENT: The pending Motion before the Senate is the Motion by the Senator from Hancock, Senator McNally, that the Senate accept the Minority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I do have a concern with the payment of compensation during the pendency of an appeal, and I think that if an Amendment can be prepared, and I am not at all sure that that can be forthcoming, but if an Amendment can be prepared that would answer or at least address the problem that we have been discussing here, then I think that this might indeed be a worthwhile piece of Legislation, and I would be willing personally to allow this to go to the Second Reader stage to see what kind of an Amendment may be offered, but I do feel that in its present condition it has some very serious drawbacks indeed.

I think that, as a matter of fact, the Bill itself is in the form of Committee Amendment, so possibly it would be proper to table this matter today so an Amendment could be prepared to the Committee Amendment, rather than on the Second Reader stage, and I would request that someone would table this for One Legislative Day.

On Motion of Mr. Conley of Cumberland, Tabled for One Legislative Day Pending the

Motion of the Senator from Hancock, Senator McNally, to accept the Minority Ought Not to Pass Report.

#### Divided Report

The Majority of the Committee on Legal Affairs on, Bill, "An Act to Establish Dog Racing in the State of Maine." (H. P. 1275) (L. D. 1506)

Reported that the same Ought Not to Pass.

Signed:

Senators:

HEWES of Cumberland  
CUMMINGS of Penobscot  
CARPENTER of Aroostook

Representatives:

JOYCE of Portland  
SHUTE of Stockton Springs  
COTE of Lewiston  
MOODY of Richmond  
BURNS of Anson  
GOULD of Old Town  
CARRIER of Westbrook  
DUDLEY of Enfield  
DURGIN of Kittery

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-319).

Signed:

Representative:

BIRON of Lewiston

Comes from the House, the Majority Report Read and Accepted.

Which Reports were Read.

On Motion of Mr. Hewes of Cumberland, Majority Ought Not to Pass Report accepted in concurrence.

#### Divided Report

The Majority of the Committee on Legal Affairs on, Bill, "An Act to Establish Chester Greenwood Day." (H. P. 1189) (L. D. 1425)

Reported that the same Ought Not to Pass.

Signed:

Senators:

CARPENTER of Aroostook  
CUMMINGS of Penobscot

Representatives:

MOODY of Richmond  
SHUTE of Stockton Springs  
BIRON of Lewiston  
CARRIER of Westbrook  
DUDLEY of Enfield

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass.

Signed:

Senator:

HEWES of Cumberland

Representatives:

BURNS of Anson  
GOULD of Old Town  
COTE of Lewiston  
JOYCE of Portland  
DURGIN of Kittery

Comes from the House, the Minority Report Read and Accepted, and the Bill Passed to be Engrossed.

Which Reports were Read.

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

Mr. HEWES: Mr. President, I move the Senate accept the Minority Ought to Pass Report in concurrence.

The PRESIDENT: The Senator from Cumberland, Senator Hewes, now moves that the Senate accept the Minority Ought to Pass Report of the Committee.

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, if I understand this correctly, this is one more Bill to create a new day, the sort of thing that I think we ought not to spend too much time on, and I will not.

other than to ask for a Division, because I think that this is unwise Legislation.

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

Mr. CARPENTER: Mr. President, I would oppose the Motion of the good Senator from Penobscot, Senator Curtis, although my name does appear on the Ought Not to Pass side.

After giving very careful consideration to the merits and demerits of good old Chester Greenwood, I think I have had a change of heart. Perhaps I have succumbed to a little bit of National publicity, which I think was one of the intents of the gentleman from the other Body who sponsored this Bill. Anyone who happened to watch the CBS morning news Friday morning heard Chester's name taken in vain on several occasions.

I think my major objection to putting this into law was the fact that we have had many Maine inventors, and why should we single out one. Well, I would just point out to you that Mr. Gatling, who invented the machine gun, is no longer with us, and neither is his particular invention. The Stanley Steamer, I believe the gentlemen who invented that, that is no longer with us in any form; however, the good old ear muff, which is what Chester Greenwood invented 100 years ago, or received a patent on 100 years ago, is still around pretty much in its original form.

As I said, I think the intent of this Bill when it was introduced was to give a little bit of recognition to quite an ingenious Maine man, who had many other accomplishments besides the ear muff, and also give a little coverage, a little publicity to our vacationland image.

What this Bill would do would be to establish the first day of winter, December 21st, each year as Chester Greenwood day. It would involve no particular functions of school or state, just a proclamation that it is Chester Greenwood Day, and it might, although it is kind of a laughable Bill, I think they had a little bit of fun with it in the other Body. I think that this Bill does have some merit. We are quite concerned about our image, we are quite concerned with our vacationland image, if you will, and I would hope that you would vote to accept the Minority Ought to Pass Report.

Thank you.

The PRESIDENT: Is the Senate eady for the question. The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Hewes, that the Senate accept the Minority Ought to Pass Report of the Committee.

A Division has been requested.

Will all those Senators in favor of accepting the Minority Ought to Pass Report, please rise in their places to be counted.

Will all those Senators opposed to accepting the Minority Ought to Pass Report, please rise in their places to be counted.

15 Senators having voted in the affirmative, and 14 Senators in the negative, the Minority Ought to Pass Report is accepted.

The Bill read Once, and Tomorrow Assigned for Second Reading.

#### Divided Report

The Majority of the Committee on Veterans and Retirement on, Bill, "An Act Concerning State Retirement Benefits for Police Officers and Firefighters." (Emergency) (H. P. 505) (L. D. 624)

Reported that the same Ought Not to Pass.

Signed:

Senators:

COLLINS of Knox  
LOVELL of York  
O'LEARY of Oxford

Representatives:

THERIAULT of Rumford  
LOUGEE of Island Falls

AUSTIN of Bingham  
BUNKER of Gouldsboro

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-309).

Signed:

Representatives:

LAFFIN of Westbrook  
HICKEY of Augusta  
NELSON of Roque Bluffs  
MacEACHERN of Lincoln  
CLARK of Freeport

Comes from the House, the Minority Report Read and Accepted and the Bill, Passed to be Engrossed, as amended by Committee Amendment "A".

Which Reports were Read.

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

Mr. CONLEY: Mr. President, I move the Senate accept the Minority Ought to Pass Report.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator O'Leary.

Mr. O'LEARY: Mr. President, I request a Division, and Mr. President, I would like to say that two years ago the Committee on Veterans and Retirement undertook a rehauling of the structure of the retirement system, and we did not try to discriminate against anyone. Everyone was being used the same. However, special interests will always be before our Committee looking for special benefits, and this one applies to the participating units for the police officers and firefighters, and only for those under the State retirement system of the State Police.

If you look at Committee Amendment "A", you can see that there is a ballooning effect that comes into play here, and if the Senator from Cumberland, Senator Conley, would realize what it would do to the cost of his community, I am sure he would not move for acceptance of this Minority Report.

I would just remind you that all of the funds, whether it be the participating units or the State retirement, come out of the same fund.

What they are asking for here will still include a ballooning effect when it comes to vacations and accumulations of sick pay, and in our report from the actuary, it says the proposed legislation would restore the differences in the method of determination of the earnings base of retirement benefits used for state police and certain police officers and firefighters in employment prior to enactment of Chapter 622, 742, and the method used for other employees. See, we would once again be creating a certain amount of discrimination.

I move the indefinite postponement of this Bill and all its accompanying papers.

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

Mr. COLLINS: Mr. President, I support the Motion of the Senator from Oxford, Senator O'Leary.

Those who were in the Senate two years ago will recall that the Legislature did a major reform effort on the retirement system. The thrust of that reform which was done after extensive study by actuaries and others expert in the field was to try to standardize just as much as possible the retirement program for everyone in the system.

But when we faced the fact that individual districts, cities and towns, have contracts with their firefighters and their policemen that in some cases had a couple of years to run, we introduced into that reform bill a system of limited grandfathering, and delayed effective dates, because we wanted those people that had contracts with their municipalities to have a fair opportunity in collective bargaining to win back in some other way some of that which they

were losing in the reform on the retirement end. For example, it was possible under the old system for some few favored groups for the person about to retire to be promoted to a higher grade on the day before he was retired, and then to retire and have his pay grade that he had held for only one day become the basis for his retirement benefits. On the other hand, the greater group of employees in the system were in a three-year averaging program.

So the basic thrust of the reform was to place everybody eventually on an average of the three best years of compensation.

Now this is perhaps the first major attack on this reform, and those who bring it before us urge that they are being unfairly treated because when they went to work for a firedepartment they believed and were led to believe that they would have a very rosy retirement program when they finished their 20 years or whatever the period was that was involved in their town or city. But in reality these very rosy programs of retirement that were in some of these contracts were really a deferred compensation measure, and deferred compensation can be replaced by current compensation at the collective bargaining table, and so our program, if it is not torpedoed by such Bills as this, allowed a time period within which those bargaining groups would have a chance to go to their employer group and, say, well, we are losing some benefits on the retirement end, so we ought to have it made up in current salary.

The fact is that our cities and towns, if they continued in the course that had been evolving in recent years, would be finding themselves in a very, very difficult financial posture in years ahead, because many of their firefighters and police people were retiring after 20 years with very high benefits, and frequently with another 40 or 50 years to live and receive those benefits with all of the increases that would be built in by future Legislatures. Now this, of course, in the case of a district or town or city, all comes back to the taxpayers in that town or city.

So I submit to you that this is an important Bill, its principle is important, and we feel that we made it as fair as we possibly could for these groups that were going to lose something, and if we start to give a special benefit to any one group, you can rest assured that the flood gates will be open, and every group will be in here one after the other, asking for the same or a little bit better deal, and we will be right back where we were four or five years ago with five or ten different standards, according to who has the political clout.

I think this Legislature, the 107th Legislature, showed a lot of courage in reforming the system as it did, to bring a new quality standard to it, and make it much sounder financially, and I hope the Senate will vote with the Senator from Oxford, Senator O'Leary, to kill this Bill.

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

Mr. FARLEY: Mr. President and Members of the Senate: I can realize the difficulty here trying to get a standard system in the retirement system; however, I would like to state two specifics here in regard to this piece of Legislation.

First of all, the average age of a fireman across the country, life expectancy, is 58 years of age. That is one thing. Secondly, the City of Biddeford, the last eleven firemen to retire or leave the fire department, ten of them died while working, not collecting one cent of retirement; and the other one, one year, and those are the facts I think we ought to be dealing with in regard to this piece of Legislation here. I know it is special Legislation, but I think in this case it is well deserved.

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

Mr. LOVELL: Mr. President and Members of

the Senate: I feel that the good Senator from York, Senator Farley, has had a very unusual case in Biddeford, and I do not think that happens. I have a son-in-law who is a fire captain in Bangor and retired after 20 years.

I do not think that we should change, as the good Senator from Knox, Senator Collins, says, I do not think we should change from the present system. Taking the wages for the last three years, the highest wages for the last three years, in my mind, and in the minds of many others, is sufficient. For example, the gentleman on the second floor, he said "this Legislation would have a discriminatory impact by according special treatment to limited groups of state employees; furthermore, the subject Legislation results in substantial changes to terms and conditions of employment which are not negotiable under State Employees Labor Relations Act. Presently contract negotiations are under way between the State and elected bargaining agent for the State Police, and this Legislation touches upon matters subject to these negotiations. Negotiations for all of our other eligible State employees should be commenced in the very near future."

I have a good deal more. I have definite notes here from the actuaries and from the retirement system stating how much more it is going to cost, not only the State but the towns and the cities, in raising this rate, and I think that we should defeat this Bill here and now, and I hope that you will go with the Ought Not to Pass Report, and I request a Division.

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

Mr. CONLEY: Mr. President and Members of the Senate: I concur with some of the things that have been said here today, but I do believe that there is an element of unfairness in dealing with the present Legislation before you, or the Legislation that was passed two years ago.

I think there is a legitimate grievance in the sense that those who were employed prior to December 31, 1975 did in a sense have a commitment under, whether it was State law or whether the fact of binding agreement, could contract with the local communities the 20 year retirement plan and other fringe benefits that are offered by the communities.

Those that came to work prior to December 31, 1975 as described by the good Senator from Knox, Senator Collins, are in a sense or were in a sense led to believe that their pension benefits would be based on the best average of the final year or one year.

I think that the Bill presently before us does in a sense try to remove that inequity as passed by the Legislature two years ago dealing primarily with these two specific groups of people.

A lot of communities, or some communities differ in the number of years relative to retirement. We talk about discrimination or we talk about special interest groups. Some communities provide 75 percent retirement benefits after 25 years of employment. Some communities provide 50 percent retirement benefits after 20 years employment. There are different agreements and different practices made by local communities.

I believe that when we had the law that stated the best retirement based on the best year that you had, then I think those people were led to believe that was what their retirement was going to be based on. Therefore, I would ask the Senate to vote against the pending Motion.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Oxford, Senator O'Leary, that L. D. 624 and all its accompanying papers be indefinitely postponed.

A Division has been requested.

Will all those Senators in favor of indefinite

postponement, please rise in their places to be counted.

Will all those Senators opposed to indefinite postponement, please rise in their places to be counted.

17 Senators having voted in the affirmative, and 12 Senators in the negative, the Motion to indefinitely postpone does prevail.

Sent down for concurrence.

(See Action later today)

#### Divided Report

Six members of the Committee on State Government on, Resolution, Proposing an Amendment to the Constitution to Undedicate the Highway Fund. (H. P. 536) (L. D. 651)

Reported in Report A that the same Ought to Pass in New Draft under new title: "Resolution, Proposing an Amendment to the Constitution to Permit the Highway Fund to be used for Public Transportation Purposes." (H. P. 1532) (L. D. 1758)

Signed:

Representatives:

LOCKE of Sebec  
MASTERTON of Cape Elizabeth  
BACHRACH of Brunswick  
DIAMOND of Windham  
CURRAN of South Portland  
VALENTINE of York

Six members of the same Committee on the same subject matter Reported in Report B that the same Ought Not to Pass.

Signed:

Senators:

COLLINS of Aroostook  
SNOWE of Androscoggin  
MARTIN of Aroostook

Representatives:

STUBBS of Hallowell  
SILSBY of Ellsworth  
CHURCHILL of Orland

One member of the same Committee on the same subject matter Reported in Report C that the same Ought to Pass.

Signed:

Representative:

KANY of Waterville

Comes from the House, Resolution and Papers Indefinitely Postponed.

Which Reports were Read.

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

Mr. COLLINS: Mr. President, I move that the Senate accept Report B, Ought Not to Pass, and would speak to my Motion.

The PRESIDENT: The Senator has the floor.

Mr. COLLINS: Mr. President and Members of the Senate: This is a biennial Bill that comes before the Legislature from time to time, and it seeks to undedicate the Highway Fund. As you know, those funds come from the gasoline tax, is a user type tax related to the operation and maintenance of our highways throughout the State. It has been in the constitution since 1945, and I think that that is the proper place for it.

I would hope that today we would join with the other Body in killing this Bill forever.

On Motion of Mr. Collins of Aroostook, Report B Accepted.

(See Action later today)

#### Reconsidered Matter

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

Mr. COLLINS: Mr. President, with respect to Bill, "An Act Concerning State Retirement Benefits for Police Officers and Firefighters" (H. P. 505) (L. D. 624), having voted on the prevailing side, I now move reconsideration of the vote whereby we indefinitely postponed this matter, and request you to vote against me.

The PRESIDENT: The Senator from Knox, Senator Collins, now moves the Senate recon-

sider its action whereby it indefinitely postponed L. D. 624.

A viva voce vote being had,

The Motion to reconsider does not prevail.

#### Second Readers

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

#### House

Bill, "An Act Concerning the Municipal Reimbursement Claims for the Tree Growth Reimbursement." (H. P. 932) (L. D. 1129)

RESOLVE, Authorizing the Exchange of Certain Public Reserved Lands, Oxford Paper Company. (H. P. 1383) (L. D. 1683)

RESOLVE, Authorizing the Exchange of Certain Public Reserved Lands with Diamond International Corporation. (H. P. 1001) (L. D. 1392)

Bill, "An Act to Provide Malt Liquor Licenses for Caterers." (H. P. 1549) (L. D. 1773)

Which were Read a Second Time and Passed to be Engrossed, in concurrence.

#### House — As Amended

Bill, "An Act Concerning a Standard Method of Tallying Ballots." (H. P. 1212) (L. D. 1442)

Bill, "An Act Concerning the Issue of Special Licenses by the Commissioner of Marine Resources." (H. P. 996) (L. D. 1185)

RESOLVE, Authorizing the Exchange of Certain Public Reserved Lands with the Dead River Group of Companies. (H. P. 1381) (L. D. 1687)

Which were Read a Second Time and Passed to be Engrossed, as amended, in concurrence.

Bill, "An Act Providing for Student and Faculty Members of the Board of Trustees of the University of Maine." (H. P. 1114) (L. D. 1332)

Which was Read a Second Time.

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

Mr. CURTIS: Mr. President, I am in the process of having an Amendment prepared, which should be ready shortly, and I would ask if somebody could table this until later in Today's Session.

On Motion of Mr. Speers of Kennebec,

Tabled until later in Today's Session, Pending Passage to be Engrossed.

(See Action later Today.)

#### Senate — As Amended

Bill, "An Act to Prohibit the Use of Electronic Devices for the Purpose of Detecting Radar." (S. P. 147) (L. D. 389)

Which was Read a Second Time.

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

Mr. CARPENTER: Mr. President, I would move that the Senate reconsider its action whereby it adopted Committee Amendment "A".

The PRESIDENT: The Senator from Aroostook, Senator Carpenter, now moves that the Senate adopt Committee Amendment "A". Is this the pleasure of the Senate.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Mr. CARPENTER: Mr. President, I now offer Senate Amendment "A" (S-142) to Committee Amendment "A", and move its adoption.

The PRESIDENT: The Senator from Aroostook, Senator Carpenter, now offers Senate Amendment "A" to Committee Amendment "A" and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" (S-142) to Committee Amendment "A" Read and Adopted. Committee Amendment "A", as amended, adopted.

This Bill, as amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

**Enactors**

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

"An Act to Clarify Certain Liquor Laws." (H. P. 1190) (L. D. 1450)

"An Act Concerning Absentee Ballots for Maine Citizens Overseas." (H. P. 924) (L. D. 1423)

"An Act to Authorize the Issuance of Free Fishing Permits to Patients in Regular Nursing Homes." (H. P. 694) (L. D. 876)

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

**Emergency**

"An Act to Repeal the Ban on Otter or Beam Trawls in a Certain Part of Washington County Territorial Waters." (H. P. 626) (L. D. 767)

**Emergency**

"An Act to Amend the Charter of the Winter Harbor Utilities District." (H. P. 1191) (L. D. 1439)

These being emergency measures and having received the affirmative votes of 30 members of the Senate, were Passed to be Enacted and having been signed by the President, were by the Secretary presented to the Governor for his approval.

**Emergency**

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Cumberland County for the Year 1977. (H. P. 1528) (L. D. 1754)

This being an emergency measure and having received the affirmative votes of 26 members of the Senate, was Finally Passed and having been signed by the President, was by the Secretary presented to the Governor for his approval.

**Reconsidered Matter**

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

Mr. COLLINS: Mr. President, with respect to Resolution, Proposing an Amendment to the Constitution to Undedicate the Highway Fund. (H. P. 536) (L. D. 651) I move the Senate reconsider its action whereby Report "B" was accepted, and I hope you vote against the motion.

The PRESIDENT: The Senator from Aroostook, Senator Collins, now moves the Senate reconsider its action whereby Report B, the Ought Not to Pass Report of the Committee was accepted.

The Chair recognizes the Senator from Cumberland, Senator Morrell.

Mr. MORRELL: Mr. President, I would ask for a Division.

The PRESIDENT: A Division has been requested on the reconsideration Motion.

Will all those Senators in favor of reconsideration, please rise in their places to be counted.

Will all those Senators opposed to reconsideration, please rise in their places to be counted.

No Senators having voted in the affirmative, and 28 Senators in the negative, the Motion to reconsider does not prevail.

**Orders of the Day**

The President laid before the Senate: Bill, "An Act to Reorganize the System of Public Post-secondary Education in Maine." (S. P. 95) (L. D. 219)

Tabled — May 10, 1977 by Senator Speers of Kennebec

Pending — Consideration.

On Motion of Mr. Curtis of Penobscot, Retabled for Two Legislative Days.

The President laid before the Senate:

Bill, "An Act Concerning Minimum Wage Law." (S. P. 250) (L. D. 777)

Tabled — May 12, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed.

On Motion of Mr. Speers of Kennebec, Retabled for One Legislative Day.

The President laid before the Senate: Bill, "An Act to Raise the Christmas Tree Transportation Registration Fee." (H. P. 179) (L. D. 241)

Tabled — May 12, 1977 by Senator Huber of Cumberland

Pending — Enactment

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

Mr. HUBER: Mr. President, I move that this Bill be placed on the Special Appropriations Table.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now moves that L. D. 241 be placed on the Special Appropriations Table, pending enactment.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President, I would request a Division on that Motion, and I would like to speak on my request for the Division.

The PRESIDENT: The Chair would advise the Senator that a Tabling Motion is not debatable.

Mr. HICHENS: Mr. President, I would ask for a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators opposing the Motion to place L. D. 241 on the Special Appropriations Table pending enactment, please rise in their places to be counted.

Will all those Senators opposing the Motion to place L. D. 241 on the Special Appropriations Table pending enactment, please rise in their places to be counted.

15 Senators having voted in the affirmative, and 12 Senators in the negative, the Motion to Table does prevail.

The President laid before the Senate:

Bill, "An Act Concerning Postgraduate Education in the Field of Medicine, Dentistry and Veterinary Medicine." (S. P. 490) (L. D. 1766)

Tabled — May 13, 1977 by Senator Pierce of Kennebec

Pending — Motion of Senator Martin of Aroostook to Recede and Concur

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

Mr. PIERCE: Mr. President and Members of the Senate: I would urge you very strongly not to accept the Recede and Concur Motion.

I think it is vitally important to the education in these three fields that we accept the Majority Report today by adhering, so I would urge you not to recede and concur.

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

Mr. CONLEY: Mr. President and Members of the Senate: the language of the good Senator from Kennebec, Senator Pierce, is extremely strong, and my understanding of the two reports before us is that there is not that great bit of difference, and I would again ask for an explanation by the good Senator from Kennebec, Senator Pierce, as to exactly what the differences are between the two Bills.

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

Mr. PIERCE: Mr. President and Members of the Senate: Very briefly the main difference between the two Bills is that the Minority Report of the Committee on Education called for a reduction in the number of medical and dental slots, and allots those people instead to optometry slots.

Now there is another Bill on the table in the other Body, a unanimous Ought to Pass Report

from the Committee on Education which recommends that the Appropriations Committee look at whether or not we should have optometrists slots. If we should and the Appropriations Table finds that they can have the money, it is not a particularly expensive Bill, then I would say, fine, let them do it at that time. However, in this Bill there have been optometrists, podiatrists, chiropractors, and everyone else wanted to jump on board. I think it is very important. I have a call at least two or three times a week from the Dean of the Medical School at Vermont and the Dean of the Medical School at Tufts, wondering when we are going to make a decision on this. I think it is vitally important to those students who are interested in going to these schools that they find out what we are going to do and what we are going to recommend, and again I would urge you to not accept the recede and concur.

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

Mr. MARTIN: Mr. President and Members of the Senate: I would strongly urge you to support my Motion to recede and concur, and in doing so, Members of the Senate, we will simply allow four positions at the New England College of Optometry.

I note here that we are also allowing four spaces at the Veterinarian Schools; and I would ask you to seriously consider that an optometrist is just as important as a veterinarian.

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

Mr. CONLEY: Mr. President, if my figures are correct, and I have reviewed the Bill before us, I believe that currently we have 25 slots available to us for dental students at Tufts. We currently have 13 MD slots available to us at Tufts. We have 13 slots available to us for MD's at the University of Vermont. Commencing in 1978 we will have 10 osteopathic slots at St. Francis in Biddeford, and I believe we would have totally 104 slots at the end of four years.

The proposed Bill that we are discussing today would reduce 2 dental slots at Tufts, 1 MD slot at Tufts, and 1 MD slot at the University of Vermont, which would make available under this Legislation the four slots for optometry.

It is my understanding that the Bill presently before us would also accrue approximately \$4,000.00 per year.

I think it is time we should start evaluating just what the State is doing, is going to continue to do, relative to the number of students we are going to make loans or subsidize for the purpose of medicine and dentistry, and the other two, osteopathic doctors as well as the optometrists. I think if we are going to fund our money into the field of optometry, then I think this is the Bill to do it with, and to start cutting back a little and take a very hard look as to what our fiscal responsibilities are going to be in the future. This Bill allows that, and it is the time right now to make the decision, not a month from now or two months from now.

I believe that the Committee itself had obviously some mixed feelings on this particular measure, but it was not that different nor that strong a difference not to accept the Bill that is currently before us, because I think we may bring about a very vast savings if we continue to play the game, and I do not think that is the intent of the Chairman of the Education Committee, nor the other Member from the Majority party from the Education Committee.

I would hope that the Senate would move to recede and concur with the House.

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

Mr. KATZ: Mr. President, there is much of the debate of the good Senator from Cumberland, Senator Conley, with which I agree. I feel that he has mixed up anchovies and artichokes by comparing 13 available slots at



the University of Vermont Medical School and 25 slots at Tufts University Dental School. The 25 slots at the Dental School is the total number of potentially enrolled dentists. The figure of 13 which he mentioned for the Medical School is a negotiated figure for one year entering students, and is far below the 20 slots that are actually available.

The Majority of the Committee on Education identified the fact that in the Majority Report we have included all of those professions for which we currently have any program. That is the justification for limiting it to those. We are supportive of optometrists. The optometrists have never had any program. The optometrists have never been involved in any State Legislation previously, and it was the honest feeling of the Majority of the Committee on Education to support a separate Bill for a separate new program.

I suggest that we are probably a year away from bringing to the Legislature a planned program in the field of health services to Maine people. I would like to take just a moment of the Senate's time, because it is an extremely important issue.

Public opinion has changed radically since we first started getting into these contracts. The contract program started with Tufts University School of Dentistry. Everyone in the State seemed to agree that the greatest shortage, professional shortage in Maine was in dentistry. There were literally thousands and thousands and thousands of Maine people who lived and died without ever, ever having access to a dentist's services. That is how we got into the program.

But there are other health programs that I would recommend to the Senate for consideration in the immediate future. Where in our order of priorities is our financial support for residency programs — a very, very important source of physicians for Maine? Where in the order of priorities is our State support for area health education, which has been advanced so nobly by the Maine Medical Center and, more recently, Eastern Maine Medical Center, to expand the health and education potential of the major hospitals in the State? And where in our order of priorities is financial support for HSA, Health Services Agency, which has been under attack in the paper in recent days? We have never taken this kind of a broad over-all look. I think we are pretty close to it.

I think we are pretty close, too, in changing our attitudes towards the whole question of contracts. Up to now contracts have been primarily identified for the benefit of Maine kids who do not have access to these professional schools, because we do not have professional schools and they cannot get in. But perhaps the more important issue which the Senate will be willing to address in the very near future is how do we address the important concern about health services to Maine people, and I think that is where our priorities are going to be changed considerably.

But as to where we are right now, I would urge us to deal with this Bill along the lines recommended by the Senator from Kennebec, Senator Pierce, dealing with those specialties where we already have in place some kind of Legislative program, and I personally will be supportive of the optometrists when they come along as a new program in the second Bill.

On that basis, I urge you to oppose the Motion to recede and concur.

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

Mr. CONLEY: Mr. President, I request a Roll Call.

The PRESIDENT: A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all

those Senators in favor of a Roll Call, please rise in their places to be counted.

Obviously, more than one-fifth having arisen, a Roll Call is ordered.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President, I wish to pair my vote with the Senator from Cumberland, Senator Jackson. If he was present, he would be voting against receding and concurring, and I would be voting to recede and concur.

The PRESIDENT: The Senator from Penobscot, Senator Pray, who would vote yea, requests that his vote be paired with the Senator from Cumberland, Senator Jackson, who would vote no. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: The good Senator from Kennebec, Senator Katz, mentioned the fact that he thought we should be taking a hard look at these decisions in the future. Well, I think that the Maine Senate should take a hard look at the decision right now, because if you do not recede and concur today, what you are going to do is build in additional contracts for this State without us ever taking a good hard look at them, and I believe the opportunity has been afforded to us right now.

Now we are talking about 104 slots for a period of four years, plus 30 OD slots on top of that at 10 per year for a period of three years. If you want to continue to just build up the number of slots, the number of available slots that this State is going to have to come up with this appropriation year after year, without taking a hard look at all of these programs, then I suggest you vote against the pending Motion. But if you want to hold the contracts in line, which are not going to take a disastrous effect at all on what we are doing with our program in this field, then I suggest you vote to recede and concur.

As I stated, the only thing that I can see, even by doing this, is perhaps a slight savings of \$4,000.00 at the end of each year.

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

Mr. SPEERS: Mr. President, after listening to the comments of the good Senator from Cumberland, Senator Conley, I am somewhat, a bit confused. I think I would pose a question through the Chair as to whether or not the Minority Report on this Bill reduces the number of slots that the State is going to be funding.

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

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I request permission to address the Senate a fourth time.

The PRESIDENT: The Senator from Cumberland, Senator Conley, requests permission to address the Senate for a fourth time. The Chair hears no objection. The Senator may proceed.

Mr. CONLEY: Mr. President, I believe what it does is it reduces, as I stated earlier, the 2 slots from the Tufts Dental School, it reduces 1 from the medical contracts that we make with them, and also 1 from the University of Vermont, which actually leaves us totally with a total of 104 that we would have, but we would also be picking up by deleting those 4 slots, we would then be making available 4 slots for the optometrists.

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

Mr. SPEERS: Mr. President, as I understand the answer, we would be reducing 4 slots on one side, and increasing 4 slots on the other side,

and we would have exactly the same number of slots. I do not really see this as an issue of holding the line, or reducing the number of slots that this State will be providing.

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

Mr. LOVELL: Mr. President, I have been in the pharmacy business for some 50 years and realizing the shortage of doctors and dentists in the State of Maine, and the tremendous prices they are getting, and any way we can get more doctors and dentists to practice in the State of Maine to keep their prices down would be, in my opinion, a great benefit to the entire population of the State of Maine — especially, if we could get a few doctors up in Aroostook County. Now they have got plenty down in Portland, but they sock everybody like mad. If they had a few more in there and they advertise their prices, which the lawyers are doing now, and the pharmacists, I think if we can have a few more slots it is really worthwhile. I want to go along with Senator Pierce on this Bill.

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

Mr. CONLEY: Mr. President, I request permission to address the Senate a fifth time.

The PRESIDENT: The Senator from Cumberland, Senator Conley, requests permission to address the Senate for a fifth time. The Chair hears no objection. The Senator may proceed.

Mr. CONLEY: Mr. President, I have yet to see that rule in the Senate, but I am going to look for it tonight.

I would like to state that, for further clarification, the dental program is being reduced from a four year program to a three year program, which makes the money available.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Aroostook, Senator Martin that the Senate recede and concur with the House.

A Roll Call has been ordered.

A yes vote will be in favor of the Motion to recede and concur. A nay vote will be opposed.

The Secretary will call the Roll.

#### ROLL CALL

YEA — Carpenter, Collins, D.; Conley, Danton, Farley, Levine, Mangan, Martin, Merrill, Minkowsky, O'Leary, Usher.

NAY — Chapman, Collins, S.; Cummings, Curtis, Greeley, Hewes, Hichens, Huber, Katz, Lovell, McNally, Morrell, Pierce, Redmond, Snowe, Speers, Wyman.

ABSENT — Trotzky.

12 Senators having voted in the affirmative, and 17 Senators in the negative, with one Senator being absent, and two Senators pairing their votes, the Motion to recede and concur does not prevail.

The PRESIDENT: Is it the pleasure of the Senate to Adhere?

A viva voce vote being had, the Motion to adhere does prevail.

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

Mr. PIERCE: Mr. President, I move reconsideration, and urge the Senate to vote against me.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, now moves the Senate reconsider its action whereby it voted to adhere.

A viva voce vote being had, the Motion to reconsider does not prevail.

Senator Speers of Kennebec was granted unanimous consent to address the Senate on the record.

Mr. SPEERS: Mr. President and Members of the Senate: I would call the attention of the good minority Leader to Rule No. 10 of the Senate.

The PRESIDENT: The Chair thanks the Senator.

Senator Conley of Cumberland was granted unanimous consent to address the Senate on the record.

Mr. CONLEY: Mr. President, there has not been a rule or a law that has been written that has not been tested.

The President laid before the Senate:

Bill, "An Act Requiring the Public Utilities Commission to Order a Community of Interest Study upon Petition by 10% of the Service Customers in a Telephone Exchange and to Promulgate Rules and Regulations Relating to the Establishment of Extended Area Service." (H. P. 650) (L. D. 794).

Tabled — May 13, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed

On Motion of Mr. Speers of Kennebec, Retabled.

The President laid before the Senate:

Bill, "An Act Concerning the Powers of the Eagle Lake Water and Sewer District." (H. P. 1521) (L. D. 1747)

Tabled — May 13, 1977 by Senator Speers of Kennebec

Pending — Enactment

On Motion of Mr. Conley of Cumberland, Retabled for one Legislative Day.

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

Mr. PIERCE: Mr. President, I would ask if the Secretary is in possession of Bill, "An Act to Provide Statutory Procedures for Grievances Against Attorneys." (H. P. 701) (L. D. 844)

The PRESIDENT: The Chair would answer the Senator in the affirmative, the Bill having been held at his request.

Mr. PIERCE: Mr. President, I would now move that we reconsider our action whereby we accepted the Ought Not to Pass Report of this Bill.

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

Mr. COLLINS: Mr. President, I would urge the Senate to vote against the pending Motion.

This Bill sets up a new Board at the expense of the taxpayers to carry out a program which is now really being carried out quite well by the Maine State Bar Association at the expense of the lawyers.

I am not sure what the motive is of the mover of reconsideration, and I will not burden the Senate with a lengthy address on this unless I hear some good reasons on the other side.

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

Mr. PIERCE: Mr. President and Members of the Senate: I would like to address the question of why I did ask for reconsideration of this particular matter.

I do so with a little hesitancy after our debate last week and the pro-lawyer and anti-lawyer factions and so forth. However, I think the good Senator from Cumberland, Senator Merrill, made the point that this Body can speak perhaps a little bit more objectively and since I am comfortable with my vote last week, perhaps I could at least bring this matter to the attention of the Senate.

L. D. 844 is an Act to provide statutory procedures for grievances against attorneys, and again I would emphasize, although the title says against attorneys, I do not think the thrust of the Bill is at all against attorneys. I might explain that the original Bill as I looked at it and it was brought to me by a person in the other Body, was a provision which I could not support. However, I would also draw your attention to House Amendment "A" (H-312) which considerably changes this Bill, and which puts it in

a posture which I feel is something that I very much can support.

For those of you who are not familiar with the present Committee that is set up by the Bar Association, I would briefly outline it for you, and I am sure that I will be very quickly corrected if I do not outline their procedures correctly. As I understand it, the Committee set up by the Bar Association now has only one lay member, and that lay member is a non-voting member, and if anyone has a grievance against an attorney, he may file the grievance and the Committee would take it up, consider it, and let that person know. The person never knows how, where, why, what, or why the decision was made. He is not given a chance to appear before the Committee, and it is very much unlike other Boards which I deal with as Chairman of the Business Legislation Committee, Real Estate Boards and so forth, where matters, grievances are brought to a public hearing, or at least a private hearing where both sides are given a chance to air their problems.

Certainly in no way, because this is kind of a closed procedure, am I suggesting that justice is not being done. But I suggest to you that if you had a grievance against an attorney, I think probably most of you would like to think that it would go before a Board where you could appear, where you could tell your side of the story and the other person could tell their side of the story, and then a decision could be issued, and that is exactly what the Amendment does. It does provide a Board of seven members, the Chairman must be an attorney, and the hearing is not a public hearing. It is a confidential hearing so the person who brings the grievance or the attorney is not harmed publicly, and the findings, after the Board has deliberated and come up with their findings, are merely passed on to the Attorney General, and they can do what they want with them, whether or not they feel they have any merits.

I guess I see this Bill as kind of a sunshine law for attorneys, and I know I have a letter which I will not burden you with, from an attorney and my attorney who is strongly supportive of this concept, and I guess I would just ask any attorney here if this Bill provides — I think the Bill provides the due process that is something that they would insist upon for any client of theirs, so I again would urge this good Body to reconsider our action.

Thank you.

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

Mr. COLLINS: Mr. President, the point which the Senator from Kennebec, Senator Pierce, makes is a criticism of the internal procedures of the Maine State Bar Association, which has been made by its own members, and which is in the process of being improved.

The lawyer grievance program that is in effect at the present time was commenced in 1969. At that time the Bar Association conferred with the Supreme Judicial Court and as a result the Supreme Judicial Court issued rules and orders setting up the procedures which are to be followed by the Maine State Bar Association with respect to grievances and internal discipline of its members.

As a result of complaints that have been made the last year or two, and partly because of the pendency of this Bill, I am frank to admit, the Board of Governors of the Maine State Bar Association has petitioned the Supreme Judicial Court to revise the program so that the five member board which now controls grievances and which consists now of four lawyers and one lay person, will be revised so that it will include two non-lawyers and those two non-lawyers will have the right to vote in the same way as the three lawyers.

The other provision that is mentioned by the Senator from Kennebec, Senator Pierce, about a chance for a confrontation and hearing is af-

forded now in all cases that are deemed to be serious.

I am sure that we all know that any occupation, any profession, has a certain number of complaints against it over a period of time. During my 29 years of law practice, clients, some of them indigent, have brought to me for professional advice their grievances against lawyers, surgeons, physicians, mechanics, cosmetologists, funeral directors, teachers, educators, clergymen, professional trustees, bankers, veterinarians, psychologists, surveyors, architects, engineers, brokers, building contractors, and dentists. I have probably forgotten some, but these were all ones that I could specifically remember.

Perhaps half of these complaints were without merit in the legal sense, and my roll would be to serve as a sympathetic listener and to offer some practical suggestions. In many of these cases a reasonably satisfactory result was obtained by writing a letter, making a phone call, notifying a trade association, the Chamber of Commerce, or a professional association. In a very small percentage of these cases we took formal legal action, including suits against a lawyer, you ask me, could I sue a lawyer, I say, yes I have sued lawyers — a doctor, and a contractor.

In this perpetual interplay between freedom and discipline, discipline in this sense meaning government, there is a growing tendency to solve all of the complaints of mankind by providing more and more reulgatory and disciplinary functions and bodies at the expense of our taxpayers. That is what this Bill is asking you to do.

If the public really wants this sort of thing, it is the public that will be paying for it. At the present time, the Maine State Bar Association, with money collected from the lawyers that belong to that Association, is paying the Bill.

The program has been steadily improving. We now have three paid staff members who deal with grievance complaints. We are spending about \$25,000.00 per year of our own money to police our own ranks.

I think members of this Body will recall that there have been disciplinary actions, suspensions, disbarments, refusals to reinstate against lawyers, against lawyers of high standing, against lawyers of wealth and position. Some of these were initiated by the Maine State Bar Association. The process when such action is initiated usually means that the Attorney General's office goes to Court. You must always remember that we do have the Courts as a body in which to take disciplinary action against attorneys, and if the matter is really serious, then it belongs in the Court.

I would submit to you that the program that the Bar Association now carries on is improving and will continue to improve. Last year the Association commenced a new program for the arbitration of fee disputes. This program was set up by a Portland attorney, Robert Preti, and it has been working very well. Every time that a complaint is filed on fees, an arbitration panel of three members is set up, including one non-lawyer who has the right to vote. That panel hears the grievance and makes a decision, and if the decision should be that the attorney has overcharged, if he does not pay it back or adjust his charge, then the Bar Association provides a lawyer, without charge, to the complainant to go after the offending lawyer and make him do what is right.

If you want to chuck that kind of procedure out, the way to do it is to put it over into the taxpayers bailiwick and operate it as a public program.

There are other professions who police their own. I think you can remember some of them, and by and large they are doing a reasonable job. I do not claim the job is perfect. There is always room for improvement, and I think that

this Bill is going to mean that the profession itself is going to improve its procedures. We have been in the process the past two years of waiting for a decision from our highest Court as to whether the Bar will become a Unified Bar, in which the Courts have even stronger authority over the Bar, or whether we shall remain a separate professional association as we have been in the past. This has been one reason for the delay in the formal rewriting of the procedures, and I am sure when that process is completed, that there will be ample opportunity for those who complain to be fully heard.

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

Mr. HEWES: Mr. President and Members of the Senate: I must respectfully disagree with my good former Senate Chairman of the Judiciary, Senator Collins, the Senator from Knox.

I think that the Members of the Bar are held in extremely low esteem by the public as a whole. A few years ago when I was in the other Body, Jack O'Brien was a used car salesman, and he mentioned that lawyers and used car salesmen were in about the same category.

If we can somehow avoid the appearance of conflict, the appearance of unethical activities, I think we members of the Bar would be well advised to do so.

I welcome the open review by an impartial and responsible body of people to review lawyers. The ethical lawyers do not have to worry about this. This is not aimed at them. It is the fringe that are not ethical that would be affected here in my opinion.

You know, it is kind of funny how our system of legal representation has evolved. A lawyer has a right to represent somebody else in Court in his matters. I can represent my seatmate in Court. But they do not have that right to represent me, and it is kind of strange how one person can represent another in his personal affairs. It is an awesome responsibility, I think, to represent somebody else, to get into minute detail of their activities, their money, their aims in life, and I think that if the code set up by attorneys is broken, I question if they should just go off, not scott free, but I think that they should be considered by some review board such as this grievance committee that is being recommended here.

In Cumberland County a few years ago two lawyers had served time and they were suspended from the practice of law for a while, and when they applied for readmission to the Bar they appeared before our then Grievance Committee of our Cumberland Bar Association. And the two lawyers in question were friendly people, but two other members of the Bar had the courage to appear before the Grievance Committee to oppose these two criminals readmission to the practice of law, and having talked to these two lawyers that appeared to oppose the readmission I am told that they were practically laughed down by the Grievance Committee, and the two lawyers that had served time in prison are now practicing law as they have been for the past ten years or more, and the two lawyers that did appear before the Grievance Committee told me that they would never again do this, that they were embarrassed by having appeared before the Committee to recommend that their two friends not be admitted to the practice of law.

I think that the public desire to know what is going on under the Right to Know Law that we hear about — we are having two hearings this afternoon on similar Bills before our Committee, and we had another one earlier this year — I think the time to change it, you know, 1977, we ought to be willing to have a Grievance Committee made up of more lay people than just one person who might be a token representative.

I had a matter recently for a client against an

osteopath, an osteopathic physician, and I did not quite know where to turn, so I turned to their Executive Secretary, a very fine man. He appears up here in the Lobby occasionally. He was helpful, but he is paid by the osteopaths of the State, just as the Bar Association representatives are paid by the lawyers, and it makes one wonder whether or not you are getting quite as open and frank a discussion as you would hope to get when the people you are discussing it with, the Grievance Committee or the osteopathic Executive Secretary, are paid by a particular group.

I hope that we will reconsider where this Bill was defeated the other day, and Amendments recommended by the Senator from Kennebec, Senator Pierce, will be adopted, and I think in the long run the lawyers will be pleased and we will have better legal representation for the public.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Kennebec, Senator Pierce, that the Senate reconsider its action whereby it accepted the Majority Ought Not to pass Report of the Committee.

The Chair will order a Division.

Will all those Senators in favor of reconsideration, please rise in their places to be counted.

Will all those Senators opposed to reconsideration, please rise in their places to be counted.

13 Senators having voted in the affirmative, and 15 Senators in the negative, the Motion to reconsider does not prevail.

The President laid before the Senate:

Bill, "An Act Providing for Student and Faculty Members of the Board of Trustees of the University of Maine," (H. P. 1114) (L. D. 1332), which was tabled earlier in today's Session by the Senator from Kennebec, Senator Speers, pending Passage to be Engrossed.

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, the Amendment which I had requested the matter be tabled for has now been distributed (S-143). I would move reconsideration of the adoption of Committee Amendment "A" to L. D. 1332, and would explain that what I would like to do is back up the piece of Legislation so that the Amendment which was added in the House could be eliminated, and the Amendment which I have presented could be added.

The issue that is at stake here is whether there should be two new trustees for the University of Maine, one faculty and one student, as I suggest, or whether there should be just one student trustee member.

The matter is a little bit complicated. I hope people will have an opportunity to read the Amendment, and I realize it is late.

On motion of Mr. Katz of Kennebec, Retabled for One Legislative Day pending a motion by Senator Curtis of Penobscot to reconsider adoption of Committee Amendment "A"

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

Mr. HUBER: Mr. President, is the Senate in possession of L. D. 1698, "Resolve, Directing the Bureau of Taxation to Provide Credits for the Commuter's Income Tax Imposed by New Hampshire for the Period January 1, 1975 to March 19, 1975.

The PRESIDENT: The Chair would answer the Senator in the affirmative, the Bill having been recalled from the Governor's office pursuant to Joint Order (S. P. 489)

The Chair recognizes the Senator from Cumberland, Senator Huber.

Mr. HUBER: Mr. President, under suspension of the rules, I move that the Senate recon-

sider its action whereby this Bill was enacted, and I would like to speak briefly to my Motion.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now moves the Senate reconsider its action whereby L. D. 1698 was Passed to be Enacted.

The Senator has the floor.

Mr. HUBER: Mr. President, I would just like to briefly explain that this Bill does have a cost variously estimated at between \$70,000.00 and \$120,000.00. It did slip through the grasp of the Appropriations Table, and I would like the Senate to reconsider it so that it can be placed on the Special Appropriations Table, and receive consideration with other appropriations measures.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now moves the Senate reconsider its action.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I pose a question through the Chair. What is the pending Motion?

The PRESIDENT: The Chair would advise that the pending Motion is the Motion by the Senator from Cumberland, Senator Huber, that the Senate reconsider its action whereby this Bill was passed to be Enacted.

Mr. CONLEY: Mr. President, under suspension of the rules?

The PRESIDENT: The Chair would answer in the affirmative.

Mr. CONLEY: Mr. President, suspension of the rules is the question before the Senate.

The PRESIDENT: The Chair would advise the Senator that the Senator is being very technical, but the Senator from Cumberland, Senator Huber, did state the Motion properly.

Mr. CONLEY: Mr. President, it is my understanding that the good Senator from Cumberland, Senator Huber, whom I have the greatest respect and affection for, has made a Motion to this Body to suspend the rules whereby this Bill had been enacted.

The PRESIDENT: The Chair would answer the Senator that he is correct.

Mr. CONLEY: Thank you, sir. Mr. President, I am not going to oppose the Motion by the good Senator from Cumberland, Senator Huber.

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

Mr. KATZ: Mr. President, a parliamentary inquiry. Is this Motion debatable?

The PRESIDENT: Suspension of the rules is not debatable. The Chair would advise the Senator, is he debating reconsideration or suspension of the rules.

Mr. KATZ: Neither.

Senator Conley of Cumberland was granted unanimous consent to address the Senate on the record.

Mr. CONLEY: Mr. President, I am a little slow on occasion, but I think I did pose a parliamentary inquiry to the Chair, and I think that is what I was debating with you when the good Senator from Kennebec, Senator Katz, raised another question.

The PRESIDENT: Is it now the pleasure of the Senate that the rules be suspended in order for the Senate to reconsider its action whereby this Bill was passed to be enacted? It is a vote.

Is it now the pleasure of the Senate to reconsider passage to be enacted? It is a vote.

On Motion of Mr. Huber of Cumberland. Placed on Special Appropriations Table. Pending Enactment.

On Motion of Mr. Huber of Cumberland. Adjourned to 9:30 tomorrow morning.