

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

Volume II

May 26, 1977 to July 25, 1977

Index

**Senate Confirmation Session
September 16, 1977**

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AUGUSTA, MAINE

SENATE

Wednesday, June 15, 1977

Senate called to Order by the President.
Prayer by Reverend George W. Beaudet, Notre Dame Church in Waterville.

Rev. BEAUDET: Lord God in Heaven, just as your servant, Jesus, came to us only in suffering and in service, Jesus also shows us not merely the true way to dominion over the world, but also the true purpose of this dominion in this State of ours. The increasing misery of mankind at the very time when man seems to be winning a grasp over the world through technology also reveals that mankind has not yet achieved the authentic authority which is found only in the obedient sonship of Christ. Man has not exercised his authority for the right purpose, the service of His fellowmen.

For authority without true brotherhood among men is authority without divine sonship. Authority without brotherhood turns into the tyranny of the few, whether political or economic, and the misery of the many.

Man's dominion over the world is authentic, fruitful and complete, only when it is exercised in obedience to God-given purposes revealed in Christ, who revealed his humanism in the words of St. Mark: "The Son of man has come, not to be served, but to serve, and give his life as a ransom for many".

Father, as we ask that man be master over nature only, and that he might use this authority in our State of Maine in the best service of his brothers.

Amen.

Reading of the Journal of yesterday.

Papers From The House
Non-concurrent Matter

Bill, An Act to Provide for Legislative Confirmation of Gubernatorial Nominations to the Maine Human Services Council. (H. P. 723) (L. D. 856)

In the House June 10, 1977, Passed to be Enacted.

In the Senate June 13, 1977 Failed of Enactment.

Comes from the House, that Body having Insisted.

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

Mr. SNOWE: Mr. President, I move we adhere.

The PRESIDENT: The Senator from Androscoggin, Senator Snowe, now moves the Senate adhere.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I move the Senate recede and concur.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves the Senate recede and concur.

The Chair will order a Division.

Will all those Senators in favor of the Motion to recede and concur, please rise in their places to be counted.

The Chair would advise the Senate that in order for this Motion to carry, it requires a two-thirds vote of those Members present and voting.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, It was not I who requested a Division.

The PRESIDENT: The Chair is aware of that.

Will all those Senators opposing the Motion to recede and concur, please rise in their places to be counted.

15 Senators having voted in the affirmative, and 12 Senators in the negative, and 15 being less than two-thirds of the Membership present, the Motion to recede and concur does not prevail.

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

Mr. MERRILL: Mr. President, is a Motion to insist and ask for a Committee of Conference in order at this time?

The PRESIDENT: The Chair would answer in the affirmative.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: The Senator from Cumberland, Senator Merrill, now moves that the Senate insist and ask for a Committee of Conference.

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion insist and ask for a Committee of Conference, please rise in their places to be counted.

Will all those Senators opposing the Motion to insist and join in a Committee of Conference, please rise in their places to be counted.

19 Senators having voted in the affirmative, and 8 Senators in the negative, the Motion to insist and join in a Committee of Conference does prevail.

Non-concurrent Matter

Bill, An Act to Provide for a Council of Economic Advisors. (S. P. 257) (L. D. 814)

In the Senate June 13, 1977 Minority 'Ought to Pass' report Read and Accepted and the Bill Passed to be Engrossed.

Comes from the House, Majority 'Ought Not to Pass' Report Read and Accepted, in non-concurrence.

On Motion of Mr. Collins of Arrostook, The Senate voted to adhere.

Joint Orders

Expressions of Legislative Sentiment recognizing that:

Mrs. Phyllis Fernald of Pittsfield is retiring after 34 years in the teaching profession 28 of which were spent in faithful and outstanding service to the Town of Pittsfield and its schools. (H. P. 1711)

James Joseph Morra of Burnham, Maine, has been recognized for his outstanding academic record by being chosen Salutatorian of Maine Central Institute in Pittsfield. (H. P. 1712)

Gary Robert Davis of Detroit, Maine has been recognized for his outstanding academic record by being chosen Valedictorian of Maine Central Institute in Pittsfield. (H. P. 1713)

Mr. and Mrs. Richard Beal, Sr. of Avon are the first Maine Family having Five Eagle Scouts and a Curved Bar held by their sons and daughters. (H. P. 1714)

Patrice Robitaille of Hampden has been recognized for her excellent academic record by being chosen Salutatorian of Hampden Academy. (H. P. 1715)

Tim Bennett of Hampden has been recognized for his outstanding academic record by being chosen Valedictorian of Hampden Academy. (H. P. 1716)

Come from the House, Read and Passed. Which were Read.

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

Mr. HICHENS: Mr. President, I would draw your attention to Joint Order H. P. 1714. I have received a note on my desk from a fellow Senator, which states "I think you should check out H. P. 1714 before you allow its passage".

If you read this, it says Mr. and Mrs. Richard Beal, Sr. of Avon are the first Maine Family having Five Eagle Scouts and a Curved Bar held by their sons and daughters.

I thank the Senator from his concern, but I think I know enough about Boy Scouts to realize that a Curved Bar is not what he indicates it

might be.

Which Joint Order were Passed in concurrence.

Joint Resolution

A Joint Resolution In Memoriam: Francis Joseph Sullivan, who was a Professor of Mechanical Engineering at the University of Maine at Orono. (H. P. 1717)

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

Communications

Committee on Public Utilities June 14, 1977
The Honorable Joseph Sewall
President of the Senate
State House
Augusta, Maine 04330
Dear President Sewall:

The Committee on Public Utilities is pleased to report that it has completed all business placed before it by the first regular session of the 108th Maine Legislature.

Total Bills Received	78
Recommitted Bills	2
Unanimous Reports	55
Ought to Pass	16
Ought to Pass as Amended	14
Ought to Pass in New Draft	9
Ought Not to Pass	7
Leave to Withdraw	9
Divided Reports	22
Change of Reference	1
Total Number of Amendments	18
Total Number of New Drafts	13

Sincerely yours,
MINNETTE H. CUMMINGS
Senate Chairman

Which was Read and Ordered Placed on File.

Order

An Expression of Legislative Sentiment recognizing that:

Susie J. Campbell has retired after 30 years of dedicated, faithful service to the Town of Minot as Town Clerk, Treasurer and Tax Collector. (S. P. 551)

Presented by Senator Snowe of Androscoggin, Cosponsor: Torrey of Poland.

Which was Read and Passed.
Sent down for concurrence.

On Motion of Mr. Huber of Cumberland, Ordered, the House concurring, that the Joint Standing Committee on Appropriations and Financial Affairs report out a bill making supplemental appropriations for the expenditures of State Government and for other purposes for the fiscal years ending June 30, 1978 and June 30, 1979. (S. P. 553)

Which was Read and Passed.
Sent down for concurrence.

Committee Reports
House

Leave to Withdraw

The Committee on Education on, Bill, An Act Concerning State Reimbursement and Executive and Legislative Deadlines under the School Finance Act of 1976. (H. P. 1654) (L. D. 1852)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Judiciary on, Bill, An Act to Create a Landlord's Lien on Personal Property in Leased Premises in Event of Issuance of Writ of Possession or Abandonment by Tenant. (H. P. 1228) (L. D. 1437)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Judiciary on, Bill, An Act

to Amend the Laws Relating to the Classification of Drug Offenses. (H. P. 280) (L. D. 374)
Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on State Government on, Bill, An Act to Require Reporting of Lobbying of Administrative Action. (H. P. 1424) (L. D. 1695)
Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on State Government on, Bill, An Act to Amend the Maine State Housing Authority Statutes so as to Abolish the Requirement of the Resolution of Consent. (H. P. 1289) (L. D. 1522)

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 — As Amended

The Committee on Election Laws on, Bill, An Act to Require Certification of Nomination Petitions. (H. P. 1) (L. D. 1)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-586).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

The Committee on State Government on, Bill An Act Creating the Maine Development Foundation. (H. P. 1012) (L. D. 1243)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-535).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

Which Reports were Read and Accepted in concurrence, and the Bills Read Once. Committee Amendments "A" were Read and Adopted in concurrence, and the Bills, as amended, Tomorrow Assigned for Second Reading.

The Committee on Human Resources on, Bill, An Act to Provide for 4-Year Terms of Office of Representatives, Governors and Lieutenant Governors of the Passamaquoddy Tribe of Indians. (H. P. 870) (L. D. 1063)

Reported that the same Ought to Pass as amended by Committee Amendment "B" (H-575)

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "B".

Which Report was Read and Accepted in concurrence, and the Bill Read Once. Committee Amendment "B" was Read and Adopted in concurrence, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Energy on, Bill, An Act to Authorize a Bond Issue in the Amount of \$10,000,000, for Energy Conservation Improvements for State-owned Buildings and Public School Buildings. (H. P. 938) (L. D. 1135)

Reported that the same Ought to Pass in New Draft under same title. (H. P. 1660) (L. D. 1856)
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.

The Committee on Legal Affairs on, Bill, An Act to Provide for the Sealing of Displayed Copies of Adult Magazines. (H. P. 551) (L. D. 668)

Reported that the same Ought to Pass in New Draft under new title: Bill, An Act to Prevent

the Display of Adult Magazines to Minors. (H. P. 1661) (L. D. 1857)

Comes from the House, the Bill, in New Draft, Passed to be Engrossed as amended by House Amendment "B" (H-581).

Which Report was Read and Accepted, in concurrence, and the Bill, in New Draft, Read Once. House Amendment "B" was Read.

On Motion of Mr. Hewes of Cumberland, Tabled until later in Today's Session, Pending Adoption of House Amendment "B".

(See Action Later Today)

Divided Report

The Majority of the Committee on Election Laws on, Bill, An Act Concerning Registration on Election Day. (H. P. 159) (L. D. 197)

Reported that the same Ought to Pass in New Draft under same title. (H. P. 1664) (L. D. 1864)

Signed:

Senators:

DANTON of York

Representatives:

BOUDREAU of Portland

BOUDREAU of Waterville

BUSTIN of Augusta

MITCHELL of Vassalboro

TRUMAN of Biddeford

TALBOT of Portland

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass in New Draft under same title. (H. P. 1665) (L. D. 1865)

Signed:

Senators:

KATZ of Kennebec

TROTZKY of Penobscot

Representatives:

DURGIN of Kittery

BIRT of E. Millinocket

McMAHON of Kennebunk

RAYMOND of Lewiston

Comes from the House, the Bill, in New Draft, (H. P. 1664) (L. D. 1864) Passed to be Engrossed as amended by House Amendment "C" (H-616).

Which Reports were Read.

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

Mr. DANTON: Mr. President, I move the Senate accept the Majority Ought to Pass Report.

The PRESIDENT: The Senator from York, Senator Danton, now moves that the Senate accept the Majority Ought to Pass Report.

On Motion of Mr. Trotzky of Penobscot,

Tabled for One Legislative Day, Pending the Motion of the Senator from York, Senator Danton, to accept the Majority Ought to Pass Report.

Divided Report

The Majority of the Committee on Fisheries and Wildlife on, Bill, An Act Concerning Unauthorized Possession of Birds and Animals. (H. P. 511) (L. D. 630)

Reported that the same Ought Not to Pass.

Signed:

Senators:

REDMOND of Somerset

USHER of Cumberland

PRAY of Penobscot

Representatives:

MASTERMAN of Milo

GILLIS of Calais

ROLLINS of Dixfield

MacEACHERN of Lincoln

TOZIER of Unity

McKEAN of Limestone

DOW of West Gardiner

PEARSON of Old Town

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-588).

Signed:

Representative:

PETERSON of Caribou

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

Which Reports were Read.

Majority Ought Not to Pass Report accepted in concurrence.

Divided Report

The Majority of the Committee on Fisheries and Wildlife on, Bill, An Act to Expedite Court Handling of Fish and Wildlife Violations of a Misdemeanor Nature by a System of Convenient Payment. (H. P. 865) (L. D. 1053)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-546).

Signed:

Representatives:

GILLIS of Calais

MacEACHERN of Lincoln

TOZIER of Unity

PETERSON of Caribou

MASTERMAN of Milo

ROLLINS of Dixfield

McKEAN of Limestone

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

Signed:

Senators:

REDMOND of Somerset

USHER of Cumberland

PRAY of Penobscot

Representatives:

PEARSON of Old Town

DOW of West Gardiner

The Minority Report Read and Accepted and Comes from the House, the Bill Passed to be Engrossed as amended by House Amendment "A". (H-609)

Which Reports were Read.

Minority Ought to Pass as amended Report accepted in concurrence.

The Bill Read Once. House Amendment "A" Read and Adopted in concurrence, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Judiciary on, Bill, An Act Relating to Judicial Review of Public Utilities Commission Decisions. (H. P. 226) (L. D. 290)

Reported that the same Ought to Pass.

Signed:

Senator:

CURTIS of Penobscot

Representatives:

TARBELL of Bangor

SPENCER of Standish

HOBBINS of Saco

HENDERSON of Bangor

BENNETT of Caribou

HUGHES of Auburn

GAUTHIER of Sanford

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

Signed:

Senators:

COLLINS of Knox

MANGAN of Androscoggin

Representatives:

DEVOE of Orono

SEWALL of Newcastle

NORRIS of Brewer

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

Which Reports were Read.

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

Mr. COLLINS: Mr. President, I move that the Senate accept the Minority Ought Not to Pass Report.

The PRESIDENT: The Senator from Knox,

Senator Collins, now moves that the Senate accept the Minority Ought Not to Pass Report.

On Motion of Mr. Speers of Kennebec,
 Tabled until later in Today's Session, Pending the Motion of the Senator from Knox, Senator Collins, to accept the Minority Ought Not to Pass Report.

Divided Report

The Majority of the Committee on Public Utilities on, Bill, An Act Prohibiting a Utility from Automatically Passing on Fuel Cost Increases to Customers by a Fuel Adjustment Clause. (H. P. 1090) (L. D. 1314)

Reported that the same Ought Not to Pass.
 Signed:

- Senators:
 CUMMINGS of Penobscot
 COLLINS of Aroostook
 CARPENTER of Aroostook

- Representatives:
 SMITH of Mars Hill
 TARR of Bridgton
 LUNT of Presque Isle
 CUNNINGHAM of New Gloucester

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

- Signed:
 Representatives:
 KELLEHER of Bangor
 NADEAU of Sanford
 WOOD of Sanford
 PEARSON of Old Town
 BERRY of Buxton
 McHENRY of Madawaska

Comes from the House, the Bill Passed to be Engrossed.
 Which Reports were Read.
 On Motion of Mr. Speers of Kennebec,
 Tabled until later in Today's Session, Pending acceptance of either Report.

Divided Report

The Majority of the Committee on Public Utilities on, Bill, An Act Granting Implied Powers to the Public Utilities Commission. (H. P. 295) (L. D. 352)

Reported that the same Ought to Pass.
 Signed:

- Senators:
 CUMMINGS of Penobscot
 CARPENTER of Aroostook

- Representatives:
 KELLEHER of Bangor
 WOOD of Sanford
 McHENRY of Madawaska
 TARR of Bridgton
 BERRY of Buxton
 NADEAU of Sanford
 PEARSON of Old Town

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

Signed:
 Senator:
 COLLINS of Aroostook

- Representatives:
 SMITH of Mars Hill
 LUNT of Presque Isle
 CUNNINGHAM of New Gloucester

Comes from the House, the Bill Passed to be Engrossed.
 Which Reports were Read.
 On Motion of Mr. Speers of Kennebec,
 Tabled until later in Today's Session, Pending acceptance of either Report.

Divided Report

The Majority of the Committee on State Government on, Bill, An Act to Provide a Temporary Disability Plan for State Employees. (H. P. 1248) (L. D. 1470)

Reported that the same Ought Not to Pass.
 Signed:

- Senators:
 COLLINS of Aroostook

- MARTIN of Aroostook
 SNOWE of Androscoggin
 Representatives:
 CURRAN of S. Portland
 VALENTINE of York
 KANY of Waterville
 BACHRACH of Brunswick
 SILSBY of Ellsworth
 LOCKE of Sebec
 CHURCHILL of Orland
 MASTERTON of Cape Elizabeth
 DIAMOND of Windham

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

- Signed:
 Representative:
 STUBBS of Hallowell
 Comes from the House, the Majority Report Read and Accepted.
 Which Reports were Read.
 On Motion of Mr. Speers of Kennebec,
 Tabled for One Legislative Day, Pending acceptance of either Report.

Divided Report

The Majority of the Committee on State Government on, Bill, An Act to Promote the Preservation of Historic Districts within the State of Maine. (H. P. 1192) (L. D. 1440)

Reported that the same Ought to Pass.
 Signed:

- Representatives:
 DIAMOND of Windham;
 LOCKE of Sebec
 BACHRACH of Brunswick
 CHURCHILL of Orland
 KANY of Waterville
 MASTERTON of Cape Elizabeth
 STUBBS of Hallowell

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

- Signed:
 Senators:
 COLLINS of Aroostook
 MARTIN of Aroostook
 SNOWE of Androscoggin
 Representatives:
 CURRAN of S. Portland
 SILSBY of Ellsworth
 VALENTINE of York

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

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 the Minority Ought Not to Pass Report.

The PRESIDENT: The Senator from Aroostook, Senator Collins, now moves that the Senate accept the Minority Ought Not to Pass Report.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President, I would like to pose a question through the Chair to the Chairman of the State Government Committee as to what the rationale was for their thinking about this Bill, and what their major objection was.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, now poses a question through the Chair.

The Chair recognizes the Senator from Aroostook, Senator Collins.

Mr. COLLINS: Mr. President and Members of the Senate, the minority view point is that the Legislation is not necessary. In effect it puts restraints on the Department of Transportation, that are rather severe, and suggests that those communities that have historic preservation districts would in effect have a veto power over proposed construction by the Department.

Now the Department as a matter of procedure does consult with the communities

where there is a road project involved at the present time. Furthermore, if there are any Federal funds involved, there is an automatic A-95 review.

Consequently, those of us in the minority position felt that the Legislation was uncalled for, and it really arrived at the Committee as sort of a parochial Bill. We have had Portland Bills, and Bangor Bills, but this one was the Hallowell Bill, and we did not think that it was necessary to pass this Legislation.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: I got a different perspective of this Bill entirely from the Department of Transportation, and until I could investigate it further, I wish somebody would table it for One Legislative Day.

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

Mr. COLLINS: Mr. President, I move this be tabled for One Legislative Day.

The PRESIDENT: The Senator from Aroostook, Senator Collins, now moves that this matter be tabled for one Legislative Day.

On Motion of Mr. Speers,
 Tabled until later in Today's Session, Pending the Motion of the Senator from Aroostook, Senator Collins, to Accept the Minority Ought Not to Pass Report.

Divided Report

The Majority of the Committee on Taxation on, Bill, An Act to Provide a Trade-in Credit on Camp Trailers under the Sales and Use Tax Law. (H. P. 1098) (L. D. 1322)

Reported that the same Ought Not to Pass.
 Signed:

- Senators:
 JACKSON of Cumberland
 MARTIN of Aroostook

- Representatives:
 CARTER of Bangor
 POST of Owl's Head
 CHONKO of Topsham
 IMMONEN of West Paris
 CAREY of Waterville
 COX of Brewer
 MACKEL of Wells
 TWITCHELL of Norway
 TEAGUE of Fairfield

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

Signed:
 Senators:
 WYMAN of Washington

Representative:
 MAXWELL of Jay
 Comes from the House, the Majority Report Read and Accepted.
 Which Reports were Read.
 On Motion of Mr. Martin of Aroostook,
 Majority Ought Not to Pass Report accepted in concurrence.

Divided Report

The Majority of the Committee on Transportation on, Bill, An Act to Recognize Mopeds as being in a Different Classification than Motorcycles. (H. P. 174) (L. D. 212)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-569).

Signed:
 Senators:
 GREELEY of Waldo
 McNALLY of Hancock
 MINKOWSKY of Androscoggin

- Representatives:
 CARROLL of Limerick
 McKEAN of Limestone
 STROUT of Corinth
 LUNT of Presque Isle
 HUTCHINGS of Lincolnville

LITTLEFIELD of Hermon
JACQUES of Lewiston
ELIAS of Madison

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as amended by Committee Amendment "B" (H-570)

Signed:

Representatives:

BROWN of Mexico
JENSEN of Portland

Comes from the House, the Majority Report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A".

Which Reports were Read.

Majority Ought to Pass Report accepted in concurrence.

The Bill Read Once. Committee Amendment "A" Read and Adopted, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Transportation on, Bill, An Act to Provide for Local Registration of all Motor Vehicles. (H. P. 847) (L. D. 1038)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-567).

Signed:

Senator:

MINKOWSKY of Androscoggin

Representatives:

ELIAS of Madison
JACQUES of Lewiston
STROUT of Corinth
BROWN of Mexico
CARROLL of Limerick
JENSEN of Portland

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

Signed:

Senators:

GREELEY of Waldo
McNALLY of Hancock

Representatives:

McKEAN of Limestone
LUNT of Presque Isle
HUTCHINGS of Lincolnville
LITTLEFIELD of Hermon

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

Which Reports were Read.

On Motion of Mr. Speers of Kennebec.

Tabled until later in Today's Session, Pending acceptance of either Report.

Divided Report

The Majority of the Committee on State Government on, Bill, An Act to Improve the Administration of the State's Merit System. (Emergency) (H. P. 239) (L. D. 398)

Reported that the same Ought to Pass.

Signed:

Senators:

MARTIN of Aroostook
SNOWE of Androscoggin

Representatives:

CURRAN of S. Portland
KANY of Waterville
CHURCHILL of Orland
VALENTINE of York
DIAMOND of Windham
BACHRACH of Brunswick
SILSBY of Ellsworth
LOCKE of Sebec
STUBBS of Hallowell

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass in New Draft under same title.

Signed:

Senator:

COLLINS of Aroostook

Representative:

MASTERTON of Cape Elizabeth

Comes from the House, the Majority Report Read and Accepted, and the Bill, Passed to be Engrossed as amended by House Amendment "A" (H-608)

Which reports were read.

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

Mr. COLLINS: Mr. President, I am in a very lonely position. I move the acceptance of the Minority Ought to Pass Report, and would speak briefly to my Motion.

The PRESIDENT: The Senator has the floor.

Mr. COLLINS: Mr. President, and Members of the Senate: This item deals, as you know, with the merit pay issue in State Government. It does not deal with longevity, it does not deal with general pay raise. It deals, very simply, with the merit system. The Minority Report would continue that system.

I think that eventually the merit system and all other matters pertaining to pay structure in State Government will properly be the subject of negotiations. However, in the meantime, we do have a merit system that has been in effect a relatively short time, and has really not had much chance to work.

My proposal does two or three things. It suggests that people who evaluate people and who rate people ought to be better trained so that they can in fact make the judgments necessary to really make a merit system work. Briefly, this proposal increases the numbers from 60-40 to 70-30, and provides an appropriation to fund the increase. It also suggests that eventually the numbers ought to be removed when the system gets to the point where people can make it work. In the meantime, it seems to me, there must be automatic stops in the system. Based on past experience in State Government, some 90 to 95 percent of the employees have received "merit increases", and until evaluators and supervisors can cope with the method of evaluating people properly it seems to me that in the public sector we must have some sort of automatic stopping point.

The Bill provides an appropriation of about \$415,000.00 in the first year, and \$650,000.00 in the second year, to implement the increase from 60 to 70 percent.

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

Mr. MERRILL: Mr. President and Members of the Senate: I think that it is important for all Senators to realize that neither acceptance of the Majority Report or acceptance of the Minority Report, which is now the Motion before us, would end the merit system in the State Government. Whatever we feel about whether or not the merit system should be continued, it will be continued whichever Report we accept.

The Majority Report, which we could accept if we rejected the Minority Report, as I see it, differs only in the regards as to whether an artificial ceiling of 70-30 will be allowed to continue. As you know, when we passed the Hay Plan last time, we imposed 60 percent limit on the number of people that could get a merit pay increase.

There are two or three issues which this poses, but before I get into those, I would like to point out that the Bill as rewritten and the Bill that the Majority Report puts forward has several steps in there which are aimed at improving the merit system, which includes a training program for the people who are responsible for implementing it.

But I would like to say that the 60-40 system has not worked, and the reason that it has not worked has nothing to do with the magic of the number 60 as opposed to the magic number of 70. It is just that it is an unfair way to try to establish management discipline sufficient so that a merit system is really a merit system. Consider, first of all, that there may be units in

which 90 percent of the people do deserve a merit pay increase. Are we as a Legislature going to say that is impossible, that State employees are, by their nature, so slack in their work that there is no unit in the State where 90 percent of the people might be deserving a merit pay increase. I think not.

Secondly, artificial barriers like this are made to be tampered with and someone who wants to take advantage of the situation and has some ability to control over what the unit is that has to be held to 60-40 can bring in some other unit and see to it that most of the people in his unit get the merit pay increase, but the unit that is brought in gets none, and that has happened in State Government.

There is no single item that we passed in the last Session that had a higher price tag than this arbitrary 60-40 measure. What that has done to State morale and what the loss in worker morale has meant to the State in terms of the job that it is getting done, is a number that I am sure can be measured in many millions of dollars. I do not think there is anyone of us here that reflects on our own experiences, personal or experiences with employees, that doubts that morale is a very important factor in what you get out of your employees. Good employees, and to have them want to work hard, those are the first requirements of management if you want to get the most for your dollar when it comes to spending on personnel. This item has caused the greatest loss in personnel, State employees, I think of anything that has been done by the State Government, and justifiably so, when there are people who are rated as high as 90 for their rating system, and they are not given a merit pay increase, simply because of some artificial system that was set up to impose discipline, and I suggest that if the system did not work in the past, maybe it is because nobody tried to make it work, and I think that the present Governor is obviously committed to seeing to it that there is some discipline among the ranks of management, and that it be understood that the merit pay increase is to be that.

I think this Bill also takes a step in that direction, so I would hope that the Senate would reject the Minority Report, 70-30, and I would ask that when the vote is taken, it be taken by the yeas and nays.

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

Mr. SPEERS: Mr. President and Members of the Senate, I would urge the Senate to vote against the pending Motion, acceptance of the Minority Ought to Pass Report: I do so because the Minority Report does not address the real objection that I have to the establishment of an arbitrary percentage leading to those who may or may not receive a merit increase.

I object to such an arbitrary establishing of an arbitrary number of individuals who may be deserving, whether that number be placed at 60 percent or at 70 percent. I think that if we are talking about a merit system, that we should be willing to say that those who are deserving of a merit increase, those who have performed their duties in such a manner that they are deserving of a merit increase should be rewarded with that merit increase, regardless of whether it be 60, 70 or 80 percent, or even just 20 percent. But it really comes down to the question of those who are deserving of that increase should be rewarded with that increase, regardless of what the percentage might eventually turn out to be. By establishing a percentage, you are establishing an arbitrary ceiling, and if there are those deserving beyond that ceiling, they simply do not get the increase.

And the important question that must be addressed, and attempts are being made now to address that question, and I commend those attempts, and I certainly hope they will continue and will increase in the future, but that question is the question of the education of management, the education to recognize, to identify and to

reward meritorious service, wherever it may be found, regardless of how many may be deserving, and that figure might very well be lower than the 60 percent. But whoever is deserving should be able to get the meritorious increase. That is the question that we are addressing in this particular Bill, and that is removing an arbitrary ceiling for this meritorious system.

I would certainly hope that the Senate would vote against the Pending Motion, which simply continues a different arbitrary ceiling.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from Aroostook, Senator Collins, that the Senate accept the Minority Ought to Pass in New Draft Report of the Committee.

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

The Chair recognizes the Senator from Penobscot, Senator Cummings.

Mrs. CUMMINGS: Mr. President, I would like to pose a question through the Chair as to the increase in the costs to the State if the 60-40 percentage rate is dropped and everyone then can get a merit increase.

The PRESIDENT: The Senator from Penobscot, Senator Cummings, now poses a question through the Chair to any Member of the Committee who may care to answer.

The Chair recognizes the Senator from Aroostook, Senator Collins.

Mr. COLLINS: Mr. President and Members of the Senate, I am not sure that that can be precisely answered, but I suspect that if 90 or 95 percent of the employees did, in fact, receive wage increases, it could cost about 1.6 million.

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

Mrs. CUMMINGS: Mr. President and Members of the Senate, in order to keep the cost down, perhaps it would be wise to allow the supervisors of each Department their own judgment as to whether everybody in their Department is an absolutely outstanding employee and give 100 percent increases. Perhaps we should limit the amount of money that we know that we have available for this, give it to the Department Heads, and then let them decide whether they want to give everybody a smaller percentage of merit increase, or whether they want to dole it out according to individual merits as have been shown throughout the previous year. That might be a safer way. If they want to placate everyone and give everybody a merit raise, whether they deserve it or not, that is their decision. If they want to reward only those who they feel have done an extraordinary and outstanding job, they could do it that way. This seems to me, we are quibbling over something that does not actually answer the question either way.

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

Mr. MERRILL: Mr. President, I believe the only way to answer the question, to have merit or to reward merit is to have good management, and I am afraid there is no artificial road to that path and that includes the Plan just offered.

The problem with a plan like that is that you have different agencies doing similar work and people end up doing similar work, and those have to be, if you want to treat all your employees equally, or treat employees who make an equal effort equally, then you are going to find a situation again. If you set up some sort of arbitrary system as just suggested, where that is not the case, where people working in one division are going to be treated differently even though they get rated exactly the same in terms of the rating system that is used.

I think what we ought to do if we are serious about a merit pay system is to go ahead with

the education and the other tools that are necessary for management and see if it can be made to work. I do not think we can assume that exactly for certain what the cost of it is going to be, but there is a price tag on this Bill, 1876, and it is broken down in terms of General Fund and all others, and the General Fund amount which is shown here is \$183,343.00 for the next fiscal year, and \$287,000.00 for the second fiscal year in the biennium. So, of course, this item will go on the Appropriations Table, if it gets that far, and compete with all other items.

I suggest that it is about the best way we could spend that number of dollars in terms of getting a lot more work, a lot more efficiency from the people who work for the State.

The PRESIDENT: Is the Senate ready for the question?

A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a Roll Call, please rise in their places to be counted.

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

The pending question before the Senate is the Motion by the Senator from Aroostook, Senator Collins, that the Senate accept the Minority Ought to Pass in New Draft Report.

A yes vote will be in favor of accepting the Minority Ought to Pass in New Draft Report. A nay vote will be opposed.

The doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEA — Collins, D.; Collins, S.; Cummings, Huber, Lovell, Morrell, Redmond, Wyman.

NAY — Chapman, Conley, Curtis, Danton, Farley, Greeley, Hewes, Hichens, Jackson, Levine, Mangan, Martin, McNally, Merrill, Minkowsky, O'Leary, Pierce, Pray, Snowe, Speers, Trotzky, Usher.

ABSENT — Carpenter.

8 Senators having voted in the Affirmative, and 22 Senators in the negative, with 2 Senators being absent, the Motion to accept the Minority Ought to Pass Report does not prevail.

Majority Ought to Pass Report accepted.

The Bill Read Once. House Amendment "A" Read and Adopted, and the Bill, as amended, Tomorrow Assigned for Second Reading.

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

Mr. HEWES: Mr. President, with reference to Bill, An Act to Prevent the Display of Adult Magazines to Minors, (H. P. 1661) (L. D. 1847) which was tabled until later in Today's Session pending adoption of the House Amendment "B", I would ask that that be taken off the Table.

The PRESIDENT: The Senator from Cumberland, Senator Hewes, now moves that the Senate remove from the Table L. D. 1847. Is this the pleasure of the Senate? It is a vote.

On Motion of Mr. Hewes of Cumberland, House Amendment "B" indefinitely postponed, in non-concurrence.

The Bill Tomorrow Assigned for Second Reading.

Senate

Mr. Collins for the Committee on State Government on, Bill, An Act Relating to Legislative Review of Conflicts of Interest in Appointments Subject to Confirmation. (S. P. 509) (L. D. 1795)

Reported that the same be granted Leave to Withdraw.

Which Report was Read and Accepted. Sent down for concurrence.

Ought to Pass — As Amended

Mrs. Snowe for the Committee on Health and Institutional Services on, Bill, An Act to Re-

quire Implementation of Standards of Treatment for Residential Drug Treatment Centers Related to Special Education. (S. P. 339) (L. D. 1124)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-241).

Mrs. Snowe for the Committee on Health and Institutional Services on, Bill, An Act to Provide for Special Education Facilities for Children at Drug Treatment Centers. (S. P. 342) (L. D. 1126)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-242)

Mr. O'Leary for the Committee on Local and County Government on, Bill, An Act Recognizing County Charters and Establishing County Charter Commissions. (S. P. 437) (L. D. 1648)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-243) (S-250).

Mr. McNally for the Committee on Transportation, Bill, An Act to Make Certain Revisions in Highway Related Laws Concerning State Aid Funds. (S. P. 117) (L. D. 276)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-246).

Mr. Katz for the Committee on Election Laws on, Bill, An Act to Allow Public Inspection of Absentee Ballot Applications and Envelopes. (S. P. 374) (L. D. 1218)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-249).

Mr. Chapman for the Committee on Business Legislation on, Bill, An Act Relating to Valuation of Real Estate Held by Insurers. (S. P. 101) (L. D. 230)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-248).

Mr. Pierce for the Committee on Business Legislation on, Bill, An Act Concerning Confidential Financial Records. (S. P. 324) (L. D. 1084)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-247).

Mr. Pierce for the Committee on Business Legislation on, Bill, An Act Amending the Maine Property Insurance Cancellation Control Act. (S. P. 116) (L. D. 275)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-243)

Which Reports were Read and Accepted and the Bills Read Once. Committee Amendments "A" were Read and Adopted and the Bills, as amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

Mr. Morrell for the Committee on Appropriations and Financial Affairs on, Bill, An Act Establishing the Division of Special Investigations within the Department of the Attorney General. (S. P. 439) (L. D. 1561)

Reported that the same Ought to Pass in New Draft under new title: Bill, An Act to Continue the Division of Special Investigations within the Department of Public Safety. (S. P. 552) (L. D. 1882)

Which Report was Read and Accepted and the Bill, in New Draft, Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Business Legislation on, Bill, An Act Requiring Average Net Cost Comparison of Life Insurance Companies. (S. P. 125) (L. D. 304)

Reported that the same Ought Not to Pass.

Signed:

Senator:

FARLEY of York

Representatives:

HOWE of S. Portland
WHITTEMORE of Skowhegan
ALOUPIIS of Bangor
BOUDREAU of Portland
JACKSON of Yarmouth
KILCOYNE of Gardiner
RIDEOUT of Mapleton

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

Signed:

Senator:

PIERCE of Kennebec

Representatives:

CLARK of Freeport
SPROWL of Hope
PEAKES of Dexter

(Senator Chapman of Sagadahoc abstained because of appearance of conflict.)

Which Reports were Read.

On Motion of Mr. Speers of Kennebec,

Tabled for One Legislative Day, Pending acceptance of either Report.

Second Readers

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

House

Bill, An Act to Revise the Maine Tort Claims Act. (H. P. 1680) (L. D. 1874)

Which was Read a Second Time.

On Motion of Mr. Collins of Knox,

Tabled until Later in Today's Session, Pending Passage to be engrossed.

Bill, An Act Permitting the Director of Public Lands to Sell Small Parcels of Public Reserved Lands with Legislative Approval. (H. P. 1681) (L. D. 1875)

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

Resolution, Proposing an Amendment to the Constitution to Permit the Governor to Veto Items Contained in Bills Appropriating Money and Retaining the Power Within the Legislature to Override such Item Vetoes. (H. P. 1287) (L. D. 1520)

Which was Read a Second Time.

On Motion of Mr. Speers of Kennebec,

Tabled for One Legislative Day, Pending passage to be engrossed.

House — As Amended

Bill, An Act Relating to an Increase in the Volume Fees Paid by Major Creditors under the Maine Consumer Credit Code. (H. P. 180) (L. D. 242)

(See Action Later Today.)

Bill, An Act Defining the Rights and Responsibilities of Landlords and Tenants in Residential Property. (H. P. 1641) (L. D. 1843)

Bill, An Act to Revise Primary and Nomination Petitions. (H. P. 1692) (L. D. 1872)

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

Enactors

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

An Act Relating to Adult Education. (S. P. 102) (L. D. 231)

An Act to Clarify the Definition of Professional Nursing and Practical Nursing. (S. P. 529) (L. D. 1847)

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

An Act to Clarify the Powers of the Department of Inland Fisheries and Wildlife. (H. P. 354) (L. D. 447)

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

Mr. PRAY: Mr. President, I move indefinite postponement of this Bill and all its accompanying papers.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now moves that the Senate indefinitely postpone L. D. 447 and all its accompanying papers.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Mr. REDMOND: Mr. President, this item has been fully debated and I request a Roll Call.

The PRESIDENT: The Senator from Somerset, Senator Redmond, requests a Roll Call.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President, I request permission to withdraw my Motion to indefinitely postpone, and ask for a Division on the enactment.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now requests leave of the Senate to withdraw his Motion to indefinitely postpone this Bill. Is it the pleasure of the Senate to grant this leave? It is a vote.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I am sure this item has been thoroughly debated, but I wonder if one of those gentleman making various Motions might refresh the memory of the rest of the Body.

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

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, this is a horrible Bill and it should be defeated.

The PRESIDENT: A Division has been requested.

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

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

18 Senators having voted in the affirmative, and 10 Senators in the negative, this Bill was passed to be enacted, signed by the President, and was presented by the Secretary to the Governor for his approval.

Orders of the Day

The President laid before the Senate the following matters, in the consideration of which the Senate was engaged at the time of adjournment yesterday, tabled and specially assigned for Tuesday, June 14, 1977.

Senate Reports — from the Committee on Local and County Government — Resolve — to Evaluate Substate Districts in Maine. (S. P. 148) (L. D. 390) Majority Report — Ought to Pass with Committee Amendment "A" (S-224); Minority Report — Ought to Pass with Committee Amendment "B" (S-225)

Tabled — June 13, 1977 by Senator Pierce of Kennebec

Pending — Motion of Senator Hichens of York to accept Majority Report

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

Mr. PIERCE: Mr. President and Members of the Senate, this Bill I originally sponsored for the Governor who wanted to evaluate Substate Districts throughout the State as there are, as you know, Planning Districts, Utility Districts, all kinds of Districts, and he really felt that he wanted to get a better handle on all these Districts to see if some of them could be consolidated and see if they really make sense as they are set up.

This Bill was originally referred to the Committee on State Government and called for a Special Blue Ribbon Task Force to be appointed by the Governor to do just this. Well somehow in the machinery of Government it got referred to the Committee on Local and County Government.

Far be it from me to say that the Committee on Local and County Government might have a slightly slanted view on this particular Resolution, but as it came out of that Committee in two different Reports, both of them called for the Local and County Government Committee to be involved in this Study. After having conferred with the Governor on this, he feels and I feel that it might be better for him to just appoint his own Blue Ribbon Committee without any Legislation, if he chooses to do so to study this area, and, therefore, although it always hurts a little bit to do it to your own Bill, I would now Move the Indefinite postponement of this Bill and all accompanying papers.

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

Mr. JACKSON: Mr. President and Members of the Senate, true, the Bill was referred to State Government originally, but the Members of the Local and County Government Committee felt where that we had been studying this problem for the last two years that if it was going to be continued for study, evaluating the Substate Districts, Counties, Special Districts, Regional Planning Commissions, things of this nature, that maybe the Committee to do it should be the Local and County Government Committee.

If you will notice there are two Committee Amendments under filing S-224 and S-225. One of those does authorize the Governor to appoint four additional members. That is under L. D. 224, and the pending Motion is on that Committee Amendment. The other Committee Amendment deals specifically with Local and County Government Committee as it stands with the appointment of two additional House Members appointed by the Speaker, two additional Senate Members appointed by the President of the Senate, to study these Substate Districts.

I do agree with the good Senator from Kennebec, Senator Pierce, that these Districts should be studied. There are overlapping services, things of this nature, but as I said earlier where the Local and County Government Committee in the last two years has been studying County Committee in the last two years has been studying County Government and we skirted around all these Substate Districts, the Regional Planning Commission, your Special Districts and things of this nature, and we just dealt primarily with Counties, but it would be advantageous, I believe, to study this. I would oppose the Motion to indefinitely postpone it. Although I did sign Committee Amendment "B" (S-225), I would be glad to take either one of them, but I do feel that it should be studied.

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

Mr. MANGAN: Mr. President and Members of the Senate, I am amused by this Bill to some degree. I have been involved with Counties in the past to a great degree. I have been looking at Districts for many years. There are in the State of Maine, according to recent estimates, well over 200 Districts in all. Nobody knows exactly how many Districts there are. These Districts include Agricultural Districts, Extension Districts, Regional Planning Districts, Soil and Water Conservation Districts, even School Districts, and we could run off Districts for the rest of the day and still not get all of them together, even Tax Assessing Districts for what it is worth.

I have always been a strong proponent of County Government, and I figure that some day we might get into a study that would involve itself with all of these Districts, and eventually get all of these Districts together in some 8, 10, 12, 20 solid Districts and call them County Government, and elect the people that control them. I think that a study of this type would be great.

However, as the Bill is constituted, itself without the Amendments, would allow the Governor, I believe, to appoint the Members of

this Committee, and I have always been somewhat suspect of the Governor's motives when it comes to County Government, especially considering some of his inaugural speeches where he wanted to take a very, very hard look at County Government, and some of his other associated comments. I would feel a lot safer with either Committee Amendment "A" (S-224) or Committee Amendment "B" (S-225) where the responsibility rests primarily with the Local and County Government Committee, which I respect tremendously, and I think they have done a fantastic job.

I would urge the defeat of the Motion to indefinitely postpone. I would urge Members of this Senate to support either Committee Amendment "A" (S-224) or Committee Amendment "B" (S-225).

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

Mr. HICHENS: Mr. President and Members of the Senate, I ask for passage of the Motion that I made the other day. If this was such a good idea when the Governor asked it to be presented, I cannot see why we should go along with his will to have his own Committee. In fact he is telling us if we do not want to play the game with the people he selects, he does not want to play the game at all, and I do not think that is justifiable.

I think the Report that I have asked for gives him four members along with the County Government Committee who, as the good Senator from Cumberland has stated, have studied this for a couple of years and have much more expertise than I, as a new Member of that Committee, and so I hope that you will go along with the Motion as made.

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

Mr. PIERCE: Mr. President and Members of the Senate, may I suggest that if the Committee on Local and County Government wants to study this, then the route they should go is a Study Order which they could put in. I feel quite strongly that we should give the Governor the courtesy of in effect withdrawing his proposal. It is not in anywheres near the form that he requested it and for us to go ahead and appropriate, I think, there is \$4,000.00 plus on the Amendment which is proposed by Senator Hichens, would not be the proper thing to do.

Therefore, I would urge you to accept the Motion to indefinitely postpone the Bill at this time.

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

Mr. HICHENS: Mr. President and Members of the Senate, I just draw your attention that this appropriation takes care of the four people that the Governor would appoint, and it would cost just the same if we had four members of the Legislature, but it would not come under the same appropriation. So I still think it is a very good idea, and I do not know how much has been changed from the Governor's original plans, but again I say if he wants to take that attitude, I think it is up to us to judge today whether it is worthy of being studied or just worthy of him appointing a Blue Ribbon Committee which would be working along with the County Government Committee, or sometimes maybe in conflict with the County Government Committee if an Order was passed.

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 indefinitely postpone L. D. 390.

The Chair will order a Division.

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

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

9 Senators having voted in the affirmative, and 13 Senators in the negative, the Motion to indefinitely postpone does not prevail.

Majority Ought to Pass as amended Report accepted.

The Bill Read Once. Committee Amendment "A" Read and Adopted, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Reconsidered Matter

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

Mr. JACKSON: Mr. President, with reference to Bill, An Act Relating to an Increase in the Volume Fees Paid by Major Creditors under the Maine Consumer Credit Code. (H. P. 180) (L. D. 242) I move that the Senate reconsider its action whereby L. D. 242 was passed to be engrossed.

The PRESIDENT: The Senator from Cumberland, Senator Jackson, now moves that the Senate reconsider its action whereby L. D. 242 was passed to be engrossed.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Mr. PIERCE: Mr. President, may I ask the good Senator from Cumberland the purpose of his Motion to reconsider.

The PRESIDENT: The Senator from Cumberland, Senator Jackson.

Mr. JACKSON: Mr. President and Members of the Senate, I did not have an opportunity this morning to take a substantial look at the calendar, and L. D. 242 is a Bill, "An Act Relating to an Increase in the Volume Fees Paid by Major Creditors under the Maine Consumer Credit Code"

In looking the Bill over and the Committee Amendment, it increases the fee considerably. There is one area where it does reduce the fees, and that is for credit from zero to \$50,000.00. From \$50,000.00 up it better than doubles the fees. In some instances, it goes from \$5.00 to \$30.00, on financial institutions, such as your credit unions, your small banks, your small businesses that do a substantial amount of business in credit, and I think it is sort of a heavy burden to place on these businesses, because, in turn, as everyone here is aware of, when you increase the cost of doing business, somebody has to pay for that increased cost, and it is passed on to the consumer eventually.

I move for reconsideration, because I would like to have an opportunity to make a Motion to indefinitely postpone this Bill and all its accompanying papers.

The PRESIDENT: Is it now the pleasure of the Senate to reconsider its action whereby L. D. 242 was passed to be engrossed.

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.

18 Senators having voted in the affirmative, and 7 Senators in the negative, the Motion to reconsider does prevail.

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

Mr. JACKSON: Mr. President, I now move the indefinite postponement of L. D. 242 and all its accompanying papers.

The PRESIDENT: The Senator from Cumberland, Senator Jackson, now moves that L. D. 242 be indefinitely postponed.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate, it is strange to me that when a Bill appears before us and although I realize fully well that this increase in fees are passed down on to the consumer, but when it comes to the operations of State Government it is unfor-

tunate that the good Senator from Cumberland, Senator Jackson, does not show the same interest in passing on additional fees such as those for hunting and fishing and those particularly in that area of passing them on. We try to hold Government in line as much as we are trying to hold the cost of business in line.

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

Mr. PIERCE: Mr. President and Members of the Senate: I think there is a much bigger question involved here as perhaps might meet the eye at first sight. A short time ago when the Bureau of Consumer Protection was set up, it was very difficult as a new Bureau, to tell exactly how the funding should be arrived at and exactly how much we should have. The present fees are \$10.00 for businesses under \$50,000.00 just a filing fee and \$15.00 per \$100,000.00 of Consumer Credit extended, so that actually 33 institutions in the State pay approximately 70 percent of the operation of this Bureau. The Bureau, from the beginning, quite obviously after it was in operation for a while, it was obvious that it was under funded.

There was a Bill put in, this original Bill L. D. 242, — which called for an increase to \$20.00 per \$100,000.00. This was unanimously or practically unanimously rejected by the Committee as being too great a burden on these 33 who pay 70 percent. It was felt by the Committee that the \$15.00 per \$100,000.00 was sufficient.

However, it was also unanimously agreed, or nearly so by the Committee, that obviously the Bureau was not properly funded. The total budget for this Bureau is approximately \$140,000.00 per year. They started off at its inception with ten people. They are now down to seven. They began with four examiners and they are now down to one. Even by cutting the staff and going down to minimal personnel, they ran a deficit and had to go to the Executive Council and borrow against their budget approximately \$13,000.00 from the Executive Council just to stay in business.

Now this Bill for the small people who extend credit under \$50,000.00, it has not changed the present fees at all. They still pay \$10.00 and \$5.00 for a branch. But for those who have more than that, and for those who are not involved in the \$15.00 per \$100,000.00, and so forth, they are going to pay a filing fee such as the credit union, — the credit union is going to pay a filing fee, period, of \$30.00 per year and that is all.

The Committee certainly did not think that this was unreasonable, and an accommodation was reached with the Banks whereby instead of putting the entire burden on them, the branch fees and most of the branches, of course, are banks, would go from \$5.00 to \$20.00, so that the banks would pick up part of this increase along with some of the other people who extend credit. Now this entire Bill only raises a proposed \$19,000.00 and it is thought by many of us probably it will not raise even this amount.

So I would hope today that you do not vote on this Bill on the basis of some emotion about the Bureau of Consumer Protection. Most of all, I hope that you do not see voting on this Bill as either an endorsement or an indictment of John Quinn, because that is not what the Bill is all about. The Bill is about the proper funding for a Department, and I have noted, although we felt we had a pretty good agreement, an accommodation reached with the banks whereby we did virtually kill the original Bill and come with a compromise Amendment, I can see that they are still scurrying around trying to defeat this piece of Legislation. I am not too happy with them for that, because they are not doing it because it is going to cost them any money, — a few of their branches instead of paying \$5.00 are going to pay \$20.00. Well, that is not going to break any bank in the State of Maine. They are doing it just for a slam at John Quinn, and that is not right, and there is nothing wrong with this

Bill, and I ask for the yeas and nays.

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

Mr. CHAPMAN: Mr. President, as a Member of the Business Legislation Committee, I just want to comment that I think the good Senator from Kennebec, Senator Pierce, has explained this Bill in an excellent fashion, and I just want to go on record as concurring with him completely.

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

Mr. CONLEY: Mr. President, I request through the Chair that the Secretary read the Committee Report on this Bill.

The PRESIDENT: The Secretary will read the Committee Report.

Committee Report Read.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Jackson, that this Bill, L. D. 242 and all its accompanying papers be indefinitely postponed.

A yes vote will be in favor of indefinite postponement.

The Chair recognizes the Senator from York, Senator Farley.

Mr. FARLEY: Mr. President and Members of the Senate, I suppose I should rise to explain my sentiments on this piece of Legislation. I certainly do not have any problem with the Department of Consumer Protection. If there is anyone in this Senate who is appreciative of that office more than I am, I do not believe that I have heard it from anybody here. I had the opportunity last summer to work with a very, very nasty problem, and thanks to that office.

However, this is an increase, this piece of Legislation is an increase in fees, is an increase in the office, and if someone can explain to me as to who this man has to answer to in the State of Maine, then I will be willing to go along with this piece of Legislation, but I would think that the man ought to be regulated or should have to answer to somebody before we continue to expand this office or the creation of this office. That was my objection to this piece of Legislation, and it still is.

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

Mr. PIERCE: Mr. President, I think the good Senator just underlined the point which I tried to make before. People are voting against the Bill on the basis of the man, and not the Bill. Whether or not this Bill passes, the office is not going to be expanded or contracted. There is one examiner now, there is going to continue to be one examiner. What you are talking about is the proper funding of the Bureau of Consumer Protection, putting it on the proper basis and it is as simple as that.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Jackson, that L. D. 242 and all its accompanying papers be indefinitely postponed.

A Roll Call has been ordered.

A yes vote will be in favor of indefinite postponement. A nay vote will be opposed.

The doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEA — Collins, D., Danton, Farley, Greeley, Hewes, Hichens, Huber, Jackson, Lovell, Mangan, McNally, Minkowsky, Morrell, Pray, Redmond, Usher, Wyman.

NAY — Chapman, Collins, S.; Conley, Cummings, Curtis, Levine, Martin, Merrill, O'Leary, Pierce, Snowe, Speers, Trotzky.

ABSENT — Carpenter, Katz.

17 Senators having voted in the affirmative, and 13 Senators in the negative, with 2 Senators being absent, the Motion to indefinitely postpone does prevail.

(Off Record Remarks)

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

Mr. FARLEY: Mr. President, having voted on the prevailing side, I now move reconsideration, and I hope you will vote against me.

The PRESIDENT: The Senator from York, Senator Farley, now moves that the Senate reconsider its action whereby it indefinitely postponed L. D. 242.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I move it be tabled until Later in Today's Session.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that L. D. 242 be tabled until later in Today's Session.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President, I ask for a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion to table until later in Today's Session, please rise in their places to be counted.

Will all those Senators opposing the Motion to table until later in Today's Session, please rise in their places to be counted.

16 Senators having voted in the affirmative, and 13 Senators in the negative, the Motion to table does prevail.

The President laid before the Senate:

Bill, "An Act to Regulate Affiliated Interests of Public Utilities." (S. P. 539) (L. D. 1870)

Tabled — June 13, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed

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

Mr. COLLINS: Mr. President, I present Senate Amendment "B" (S-240) and move its adoption.

The PRESIDENT: The Senator from Knox, Senator Collins, now offers Senate Amendment "B" and moves its adoption. The Secretary will read Senate Amendment "B".

Senate Amendment "B" Read and Adopted.

On Motion of Mr. Speers of Kennebec,

Tabled until later in Today's Session, pending passage to be engrossed.

The President laid before the Senate:

Bill, "An Act to Amend the Septic Tank and Cesspool Waste Act." (H. P. 365) (L. D. 456)

Tabled — June 13, 1977 by Senator Huber of Cumberland

Pending — Motion of Senator Speers of Kennebec to reconsider Enactment

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

Mr. SPEERS: Mr. President, there seemed to have been some question with regard to this particular Bill, as to whether or not it required that the waste disposal unit be located within the municipality, within each municipality, and I would like to read into the record a comment from Commissioner Adams, the Commissioner of the Department of Environmental Protection, as follows:

"You have asked if L. D. 456 restricts municipalities to having septic tank waste disposal sites solely within their own boundaries?"

The answer to this question is no. Two or more communities may join in having a single site. The only thing L. D. 456 requires, in addition to DEP approval is that the community in which the site is located approve the location."

"The first sentence in L. D. 456 Sec 3 part 1320 read as follows:"

"1. Site required. Each municipality shall provide for the disposal of all waste, effluent, sludge and other materials from all septic tanks and cesspools located within the municipality."

"The last four words "located within the municipality" describes the origin of the waste "all septic tanks and cesspools" not the location of the disposal site. A municipality may meet its obligation under the statute by contracting for the use of a site, publicly or privately owned, inside or outside its boundaries, so long as the site is approved according to the law and available for disposal of all septic wastes pumped within the municipality."

Mr. President, I would request leave to withdraw the Motion to reconsider enactment of this Bill.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now requests leave of the Senate to withdraw his motion to reconsider enactment. Is it the pleasure of the Senate to grant this leave? It is a vote.

The Bill was by the Secretary presented to the Governor for his approval.

The President laid before the Senate:

Bill "An Act to Base Adjustments of Teacher and State Employee Retirement Allowances on the Consumer Price Index." (S. P. 317) (L. D. 1075)

Tabled — Earlier in the day by Senator Speers of Kennebec

Pending — Motion of Same Senator to Indefinitely Postpone Committee Amendment "A" (S-236)

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

Mr. SPEERS: Mr. President, I have had considerable conversation with the Chairman of this particular Committee, as well as other Committee Members, and those who are involved with this particular piece of Legislation, and although it does not meet all of the requests that had been made, I do feel that the Committee has put in a considerable amount of work in this matter, and has come out with a unanimous Report on this matter, and I would, therefore, request leave to withdraw my Motion to indefinitely postpone Committee Amendment "A".

The PRESIDENT: The Senator from Kennebec, Senator Speers, now requests leave of the Senate to withdraw his Motion to indefinitely postpone Committee Amendment "A". Is this the pleasure of the Senate to grant this leave? It is a vote.

Committee Amendment "A" Adopted.

Under suspension of the rules, and on Motion of Mr. Speers of Kennebec, the Bill Read Twice. The Bill passed to be engrossed as amended.

Sent down for concurrence.

(Off Record Remarks)

Tabled and specially assigned for June 15, 1977.

The President laid before the Senate:

Resolution, Proposing an Amendment to the Constitution to Repeal the Section Concerning Appointment of Standby State and Local Government Officers in Case of Enemy Attack. (H. P. 15) (L. D. 24)

Tabled — June 14, 1977 by Senator Collins of Aroostook

Pending — Consideration

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

Mr. COLLINS: Mr. President, I move we recede and concur.

The PRESIDENT: The Senator from Aroostook, Senator Collins, now moves the Senate recede and concur.

On Motion of Mr. Speers of Kennebec, Tabled for One Legislative Day, Pending the Motion of the Senator from Aroostook, Senator Collins, that the Senate recede and concur.

The President laid before the Senate: Resolution, Proposing an Amendment to the Constitution to Mandate the Appropriation of Funds for State Employee and Teacher Retirement Costs. (H. P. 2) (L. D. 2)

Tabled — June 14, 1977 Senator Speers of Kennebec

Pending — Passage to be Engrossed
Which Resolution was Passed to be engrossed, as amended, in concurrence.

The President laid before the Senate: Bill, "An Act to Clarify Sex Discrimination in the Maine Human Rights Act." (S. P. 260) (L. D. 821)

Tabled — June 14, 1977 by Senator Speers of Kennebec

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

The President laid before the Senate: Bill, "An Act Regarding the Sales Tax for Sales Made Through Vending Machines." (S. P. 396) (L. D. 1355)

Tabled — June 14, 1977 by Senator Speers of Kennebec

Pending — Adoption of Senate Amendment "A" (S-239) to Committee Amendment "A" (S-214)

Senate Amendment "A" to Committee Amendment "A" Adopted. Committee Amendment "A", as amended, adopted. This Bill, as amended, passed to be engrossed.

Sent down for concurrence.

The President laid before the Senate: Bill, "An Act to Amend the Membership and the Legislative Mandate of the Capitol Planning Commission." (H. P. 1128) (L. D. 1345)

Tabled — June 14, 1977 by Senator Speers of Kennebec

Pending — Enactment
The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Morrell.

Mr. MORRELL: Mr. President and Members of the Senate, relative to this item, I would move that the rules be suspended for purposes of reconsideration.

The PRESIDENT: The Senator from Cumberland, Senator Morrell, now moves that the Senate suspend its rules. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.
Mr. MORRELL: Mr. President, I now move that we reconsider our action whereby L. D. 1345 was passed to be engrossed.

The PRESIDENT: The Senator from Cumberland, Senator Morrell, now moves that the Senate reconsider its action whereby L. D. 1345 was passed to be engrossed. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.
Mr. MORRELL: Mr. President, I now move that the Senate reconsider its action whereby it adopted Committee Amendment "A".

The PRESIDENT: The Senator from Cumberland, Senator Morrell, now moves that the Senate reconsider its action whereby it adopted Committee Amendment "A". Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.
Mr. MORRELL: Mr. President, I now offer Senate Amendment "A" (S-251) and move its adoption.

The PRESIDENT: The Senator from

Cumberland, Senator Morrell, now offers Senate Amendment "A" and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" Read.
The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Collins.

Mr. COLLINS: Mr. President and Members of the Senate: I see that the Amendment changes slightly the makeup of the Planning Commission. I would like to review for you the present law which provides for five members appointed by the Governor at large. The Committee in its discussions on the matter ended up with an increase to seven members after considering in Committee some five different proposals, and this was in effect the best compromise that we could come up with. Our proposal does provide for a City Councilman from Augusta. It also provides for a resident from the Capitol Planning District. It would seem to me that the Amendment now does not define the Capitol District and, in effect, just says two residents from Augusta. That is substantially the difference between our proposal and the one offered from the good Senator from Cumberland, Senator Morrell.

I think the Committee's feeling was that the District ought to have some representation, and, therefore, I would oppose the Motion to accept the Amendment.

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

Mr. MORRELL: Mr. President and Members of the Senate, I can appreciate the comments of the good Senator from Aroostook, Senator Collins. The purpose in my presenting this Amendment is that it is the opinion of many of us that to be sure there should continue to be, and it should be in the statutes, adequate representation from the City of Augusta. Presently the City Manager of Augusta serves on the Commission as well as another citizen. It is our feeling that although there is a definite need for coordination between the Commission and the City of Augusta, that really the Capitol Complex belongs to all the people of Maine, and that to specify one of the seven members of the Commission must definitely be from within the District itself seemed to us to be a rather parochial view of the charge of the Commission, so I guess it is a basic difference of opinion relative to that point. Certainly, we have no objection to increasing the size of the Commission and think it quite proper to statutorily provide for two, at least two members from the City of Augusta, but we do feel that the primary function of the Commission is to, first off, represent all the people of Maine in the proper handling of construction, renovation or any other plans that might come about in the Capitol Complex of all the people of Maine and not the parochial consideration which this Bill really might indicate.

Senate Amendment "A" to Copmmittee Amendment "A" Adopted. Committee Amendment "A", as amended, adopted.

This Bill, as amended, passed to be engrossed in non-concurrence.

Sent down for concurrence.

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

Mr. HUBER: Mr. President and Members of the Senate, I am the proud recipient of a most remarkable piece of demagoguery, addressed to me as Chairman of the Appropriations Committee, and also to the other Members of the Appropriations Committee. This Communication is from the Chief Executive of this State.

Basically it lobbies for specific programs, specific pieces of items of Legislation, which the Appropriations Committee will consider in its Part II Budget.

I feel that it shows a total lack of understanding of the budgetary process in which the

Part I budget attempts to address the framework of State government, and will address the new or expanded programs, whether supported by the Governor or by the Legislature, either as Bills or as a Part II budget.

Inasmuch as the P.S. on this letter reads that "In view of the fact that I have been asked for a response to the Appropriations Bill, I intend to release this letter after it has been delivered.", I am sorry this letter is written for the public. It will, I am sure, be discussed in the papers.

I simply would like to react to what I feel is a very wide-ranging response to the Part I budget, using terms which are substantially inflammatory.

I hope the Appropriations Committee will take this with perhaps more ease than I am taking it. I somewhat resent it, obviously, and I would like to point out that it totally confuses the differentiation between Part I and Part II, and I hope the Legislature is not confused by it.

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

Mr. MERRILL: Mr. President and Members of the Senate, as was pointed out by the Chairman of the Appropriations Committee, copies were sent to all Members of the Committee, and I found the letter as interesting for what it did not say, as for what it did, for missing in the whole epistle was any compliment to the Committee for saving the people of Maine \$1 million, which, of course, is the difference between our recommendation and the Governor's. And this surprises me, because I have known of the sincere and long-standing concerns of the Chief Executive in this area. I would think where he might have had specific differences, he would have at least been very happy and excited to receive a budget from the Legislature below his own hopes.

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

Mr. MORRELL: Mr. President, I would like to reiterate some of the comments that my two associates on the Appropriations Committee have made relative to this letter from the Governor.

I think it is inappropriate. I think it is impolite. I think it is uninformed. I think the inferences he makes show total lack of understanding of what the Committee has gone through to bring out what we all admit is not at any one time a perfect document, but at least a conscientious effort.

I would suggest to the Governor that he try to do the same.

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

Mr. SPEERS: Mr. President, I have had an opportunity to peruse this particular letter that was sent to this Committee. As has been stated, it is a public document at this point.

Mr. President, my comments with regard to this matter is that again reiterating that it does not say a great deal, as well as what it does say.

My question to the Governor, and one which I think the people of the State of Maine, should be asking and are entitled to ask, and have the right to ask, is what amount of appropriations the Governor is recommending over and above what the Committee has come out with.

If you read the letter, and I am sure all of you will have an opportunity to do so, it seems to me that the Governor particularly is disturbed with the amount of funds being appropriated for the University of Maine, and he makes several comparisons and several questions to the Committee as to why various other programs were not adopted while the University of Maine was receiving X number of additional dollars. Well,

if you read down through the various programs that he is talking about, I think it is important to understand that this is going to cost several millions of dollars more than what was appropriated to the University, or what additional monies were appropriated to the University. He talks, for example, just to point out one single program, with regard to providing free drugs for Maine's elderly. The implication is clear in this letter that if the Appropriations Committee had not submitted additional appropriations to the University of Maine, that we could have then passed all of these other programs that he points out in his letter. And not once in the letter is there a discussion of the cost involved with those various programs, as compared to the costs of the additional money going to the University of Maine.

I think it is very important that this implication is being made, that those costs should be specified in that letter as well.

Senator Curtis of Penobscot was granted unanimous consent to address the Senate on the record.

Mr. CURTIS: Mr. President, I, too, have had an opportunity to read very quickly the communication, and I find that almost every paragraph has, I think, a highly irresponsible comment about the University of Maine. I am shocked by the tone of the letter, and I am appalled by the inflammatory remarks regarding the University that are included in it.

I think it is important for the University personnel, who are such dedicated people and have worked for so long out of their dedication for education in the State of Maine, regardless of the low salaries that are involved, that they remember that the Part I budget with its recognition of the problems of the University and its attempt by the Legislature to solve those problems, was enacted by 184 elected Legislators from the State of Maine, and the letter, of course, is the communication from just one elected official.

Senator Merrill was granted unanimous consent to address the Senate on the record.

Mr. MERRILL: Mr. President and Members of the Senate: In light of the comments in the letter and the comments of the previous speaker, I think it is important for the people of the State of Maine and for the Members of the Legislature to realize that even with the additional funding that the Appropriations Committee put in the Bill, the funding level is three percent below in absolute dollar terms what the budget of four years ago was. And so it cannot honestly be said that the Governor's insistence on cutting back the University of Maine, even with the passage of this budget, has not had an effect, but when you add in the cost of inflation over that period of years, you can see that the University funding is substantially below what it has been.

I think it is rather unfair for the Governor to suggest, and it would be misleading for us to brag that we have restored the University of Maine to its position before the Governor started his cost cutting measures. We have in effect struck a balance between two positions, and one which I am comfortable with, but one which certainly does not restore the University of Maine to its previous position.

Senator Lovell of York was granted unanimous consent to address the Senate on the record.

Mr. LOVELL: Mr. President and Members of the Senate, I arise this morning to particularly praise the good Senator from Cumberland, Senator Merrill, and the good Senator from Cumberland, Senator Conley.

I have noticed recently in the Portland Paper, and from the business magazines that I get, that Portland is now getting ready to build

either their seventh or eighth speculative industrial building, and I want to compliment the City of Portland, the Mayor and the Chamber of Commerce and the Greater Portland Industrial Development Authority on their fine work on building speculative buildings in and around the greater Portland area, and this new one is going in Gorham, and I am sure that it will be soon sold or leased. Those in Westbrook and South Portland in their parks are now fully sold and have employed a great many people for that area.

That is probably one reason why our gross product last year was \$5,800 million, another reason why our turnpikes and all of our significations of prosperity in Maine. Also over nine percent of the income of the people of the State of Maine rose.

Maine is really coming to its front, and I think Portland deserves a great deal of praise for their enthusiastic work in this industrial development field.

Thank you.

(Off Record Remarks)

The PRESIDENT: Is it the pleasure of the Senate that all matters acted upon this morning be sent down forthwith? It is a vote.

On Motion of Mr. Huber of Cumberland,
Recessed to 4:30 this afternoon.

(Recess)

After Recess

Senate called to order by the President.

Out of order and under suspension of the rules the Senate voted to consider the following additional

Papers from the House

Joint Orders

Expressions of Legislative Sentiment recognizing that:

Rita Cote is retiring on June 17, 1977 after 36 years of service to the Town of York as bookkeeper, deputy treasurer and ambassador of good will. (H. P. 1721)

The Kittery Historical and Naval Museum held its grand opening on June 12, 1977. (H. P. 1723)

Come from the House, Read and Passed.

Which Orders were Read and Passed in concurrence.

(Off Record Remarks)

Communication
House of Representatives

June 15, 1977

The Honorable May M. Ross
Secretary of the Senate
108th Legislature
Augusta, Maine
Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the Disagreeing action of the two branches of the Legislature on Bill "An Act to Remove the Commercial License of Smelt Fishermen" (H. P. 1045) (L. D. 1272)

Mrs. POST of Owls Head
Messrs. FOWLIE of Rockland
BUNKER of Gouldsboro

The Speaker also appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Impose a 4-Quart Limit on the Taking of Smelts Throughout the Entire Smelting Season" (S. P. 320) (L. D. 1077)

Messrs. BLODGETT of Waldoboro
NELSON of Roque Bluffs
TYNDALE of Kennebunkport

Respectfully,

EDWIN H. PERT
Clerk of the House
Which was read and ordered placed on file.

Committee Reports

House

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

Bill, An Act to Provide for Annual State Budgeting. (H. P. 1127) (L. D. 1346)

Bill, An Act to Allow a Security Dealer to be on a Bank Board. (H. P. 351) (L. D. 444)

Bill, An Act to Allow Families with an Unemployed Father to Participate in the Aid to Families with Dependent Children Program in Lieu of Receiving Unemployment Benefits. (H. P. 674) (L. D. 859)

Leave to Withdraw

The Committee on Business Legislation on, Bill, An Act to Amend the Charitable Solicitations Act. (H. P. 685) (L. D. 867)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Business Legislation on, Bill, An Act Relating to Bank Credit Cards under the Maine Consumer Credit Code. (H. P. 1139) (L. D. 1373)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Business Legislation on, Bill, An Act Relating to Qualifications, Application and Issuance of a Plumber's License. (H. P. 1024) (L. D. 1245)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Business Legislation on, Bill, An Act to Establish the Certification of Marriage and Family Counselors. (H. P. 803) (L. D. 1022)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Business Legislation on, Bill, An Act to Clarify the Consumer Credit Code. (H. P. 311) (L. D. 402)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Human Resources on, Bill, An Act Concerning Reimbursement to Municipalities for Certain Public Assistance Provided to Aid to Dependent Children Applicants. (H. P. 1178) (L. D. 1406)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Liquor Control on, Bill, An Act to Provide for Municipal Licensing of Public Dancing and to Authorize Suspension or Revocation of Municipal Licenses for Exhibitions and Amusements. (H. P. 1109) (L. D. 1364)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on State Government on, Bill, An Act Concerning Conflicts of Interest in Offices Subject to Legislative Confirmation. (Emergency) (H. P. 18) (L. D. 29)

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 — As Amended

The Committee on Labor on, Bill, An Act to

Extend Collective Bargaining Rights to County Employees. (H. P. 1278) (L. D. 1509)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-602)

Comes from the House the Bill Passed to be Engrossed as amended by Committee Amendment "A"

Which Report was Read and Accepted, in concurrence

The Bill Read Once.

Committee Amendment "A" Read and Adopted, and the Bill, as amended, Tomorrow Assented for Second Reading.

Ought to Pass in New Draft

The Committee on Judiciary on, Bill, An Act Relating to Reporting of Data of Abortions Performed by an Attending Physician. (H. P. 987) (L. D. 1198)

Reported that the same Ought to Pass in New Draft under same title. (H. P. 1628) (L. D. 1831)

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

Which Report was Read.

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

Mr. HUBER: Mr. President and Members of the Senate, I see distributed on our desk a letter from John Carey, Supervisor of Vital Records, Department of Human Services, dated April 22 and urging support for this Bill.

I am in possession of another letter from the same person dated June 14th to a Member of the other Body. I would like to read this memo, again from John Carey, to a Member of the other Body. "This note is in regard to our telephone conversation of June 13, 1977 concerning L. D. 1198" An Act Relating to Reporting of Data of Abortions Performed by an Attending Physician. Where we did favor this Legislation because it would provide for the filing of induced abortions per se, we will have to point out that there already are laws requiring the filing of all fetal deaths. Title 22, Section 2841 is the law providing for this."

Inasmuch as existing statutes already provide for the recording that would be required under this Bill, I feel that this Bill is unnecessary and intentionally constitutes a source of harassment to traditions and individuals.

I move indefinite postponement of the Bill.

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

Mr. COLLINS: Mr. President, the information that has just been given to us by the Senator from Cumberland, Senator Huber, was not before the Judiciary Committee, as I recall it. There was evidence before the Committee from a few doctors, and I believe at least one hospital, that this information was not being adequately collected, and that it would be of value to the medical profession and to those who measure the State's health programs, treatment programs of various types if a more exact sort of reporting were required. I think that was the basis on which the Committee went along with the request for this type of information.

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

Mr. CURTIS: Mr. President, I would like to point out to the Senate that regardless of what a letter states which was quoted, there are some other things in this piece of Legislation which might be helpful.

We have now on the Books a provision which is not enforced that is criminal provision regarding a person who conducts an abortion. The last Section of this Bill before us, L. D. 1831, reads that "a physician who reports data on abortion pursuant to this Section shall be immune from any criminal liability for that abortion, under Title 17, Section 51," which would seem to be a backdoor way, but nevertheless a method to encourage physicians

to provide the information which will be helpful in the future regarding the abortions which are performed, guarantee them that they will not be the test case which will be time consuming and expensive and prove that a statute on the Books is un-constitutional.

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

Mr. MANGAN: Mr. President, this document, L. D. 1831, is a tremendous compromise on the Committee itself. There are some of those, like myself, who are primarily "right to lifers", and there are those on the Committee who favored strongly eliminating the entire Bill as was originally written, and this product is a result of some very serious compromises on the Committee.

The rationale behind the Bill itself is to collect data which is generally unavailable in the State of Maine today on abortions that are performed for medical purposes. Now it is unknown today how many abortions are actually being performed, how many doctors actually report any abortions at all. It is unknown why abortions are being performed. It is unknown the length or size of the fetus that is being aborted, and this information is being sought primarily to aid later on in medical research on the matter of abortion itself.

In a letter that I have received from Dr. Lionel Tardiff out of Lewiston, and he has stated that medicine has been a long time or long standing practice that any tissue removed from the body at the time of surgery is sent to laboratory where tissue is weighed and measured and duly reported. It also should be noted that ultrasound which is a very modern technological development, is presently being used in every hospital in the State where pregnancy is involved at its early stage, this method used to determine the distance between two bones in the baby's skull. All of these, to dispense with further reading, all of these measurements are being done in hospitals today, and it is nothing to put them on a piece of paper and ship them up to Augusta, which is going to help medicine in the State of Maine to advance itself, and to assist the medical society in furthering their knowledge of the early development of childhood.

I would urge that the Members of the Senate to strike and not support the Motion to indefinitely postpone.

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

Mr. TROTZKY: Mr. President and Members of the Senate, I would urge the Senate to go along with the Motion to indefinitely postpone this Bill.

There are contradictions in this Bill. It says, last page, Section 2, "A physician who reports data on abortion shall be immune from criminal liability for that abortion under Title 17, Section 51." A Court decision was handed down by Judge Gignoux of the U.S. District Court, February 19, 1973, and it states in that decision by Maine Supreme Court "the Maine Abortion Law, Section 17 MRSA Section 52, unambiguously prohibits all abortions not necessary for the preservation of the mother's life and is hence void and unenforceable under the 14th Amendment, Roe vs. Wade. Now that is our Supreme Court in the State of Maine saying that, so then to put a statute on the Books saying that you are not liable under that statute does not make sense to me.

Also, I think if you read the Bill and look what it says, to me it is just not helping any way the medical profession. The Bill is intended in every way to, I think try to make abortion distasteful to doctors, and I would say that abortion, in most cases, is a tragedy for the woman involved, and probably for the family involved in most cases, but to put this on the Books to me is no help. If you read it, it says "the doctor may weigh in grams the fetus aborted, measure in

centimeters the fetus aborted from crown to rump, the sitting height," and so on. I do not believe that this Bill belongs on the Books here in the State of Maine.

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

Mr. CONLEY: Mr. President and Members of the Senate: I agree with the good Senator from Androscoggin, Senator Mangan. I think that this is a vital piece of Legislation. There are those of us in the State who detest abortion. We look upon certain records that today come from hospitals that are given to city clerks, such as the Bureau of Vital Statistics, dealing with the birth of every child in this State. For one of those has and always will continue to fight abortion, I think that this State should know what is going on in our hospitals, and this Legislation will continue to serve that knowledge.

Mr. President, when the vote is taken, I request it be taken by the yeas and nays.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Androscoggin, Senator Mangan.

Mr. MANGAN: Mr. President, as we go into the abortion issue, I think there are a lot of people here who may or may not agree with me on being anti-abortion. I am sure the voters would be interested.

However, be it known that according to a report that I heard last week on the radio, approximately 80 percent of the private hospitals today refuse to do abortions, 70 percent of the public hospitals refuse to do abortions. It becomes a matter of serious conscience.

I understand that the law in the State of Maine today prohibiting abortions has been ruled un-constitutional; therefore, a physician would have no problem reporting the information which is fairly common to all doctors. That is apparently not difficult information to get, and I think that this information will certainly serve to assist the people in the State of Maine as to know what is going on, and will assist the doctors in getting some accurate facts in order to base their judgments on abortions or on abortion Legislation later on to try and provide for the safety of the mother.

As far as the last Section, "a physician who reports data on abortions pursuant to this Section shall be immune from any criminal liability for abortion under Title 17, Section 51." If I recall correctly, there has been no criminal prosecutions for abortion since the law went into effect, so I do not think that the medical community is really afraid of this Section.

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

Mr. HUBER: Mr. President and Members of the Senate, I still contend that the existing law, if this reporting is not being done under Title 22, Section 2841, then we should enforce our existing laws better, not pass an additional law, which, in fact, in the absence of any valid law concerning abortion on the Books now, the Bill before this Body would, in a sense, legalize abortion.

The PRESIDENT: Is the Senate ready for the question?

A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators present 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 pending question before the Senate is the Motion by the Senator from Cumberland, Senator Huber, that the Senate indefinitely postpone L. D. 1831.

A yes vote will be in favor of indefinite postponement. A nay vote will be opposed.

The doorkeeper will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

Yeas: Chapman, Cummings, Greeley, Huber, Trozky.

Nays: Collins, D.; Collins, S.; Conley, Curtis, Danton, Farley, Hewes, Hichens, Jackson, Levine, Lovell, Mangan, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Snowe, Speers, Usher.

Absent: Carpenter, Katz, Redmond, Wyman.

The PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Mr. CHAPMAN: Mr. President, I wish to change my vote from yes to no.

The PRESIDENT: The Senator from Sagadahoc, Senator Chapman, changes his vote from yea to nay.

4 Senators having voted in the affirmative; and 24 Senators in the negative, with 4 Senators being absent, the motion to indefinitely postpone does not prevail.

Ought to Pass in New Draft Report accepted.

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

Senate

Leave to Withdraw

Mrs. SNOWE for the Committee on Health and Institutional Services on, Bill, "An Act to Establish a Health Facilities Cost Review Board." (S. P. 506) (L. D. 1794).

Reported that the same be granted Leave to Withdraw.

Mr. COLLINS for the Committee on State Government on, Bill, "An Act to Strengthen the Representative Form of State Government and to Improve the Legislative Process." (S. P. 371) (L. D. 1221)

Report that the same be granted Leave to Withdraw.

Mr. McNALLY for the Committee on Labor on, Bill, "An Act Relating to Disqualification from Unemployment Compensation Benefits." (S. P. 270) (L. D. 828).

Reported that the same be granted Leave to Withdraw.

Which Reports were Read and Accepted.

Sent down for concurrence.

Ought to Pass — As Amended

Mr. WYMAN for the Committee on Taxation on, Bill, "An Act to Relieve the Income Tax Burden of the Elderly Retired." (S. P. 442) (L. D. 1530).

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-257).

Mr. LEVINE for the Committee on Marine Resources on, Bill, "An Act to Provide for Marine Resources Education by the Department of Marine Resources and to Establish a Marine Communication Center." (S. P. 441) (L. D. 1552).

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-253).

Which Reports were Read and Accepted and the Bills Read Once. Committee Amendments "A" Read and Adopted, and the Bills, as amended, Tomorrow Assigned for Second Reading.

Enactors

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

"An Act to Merge the Passenger Tramway Safety Board with the Board of Elevator Rules and Regulations." (S. P. 532) (L. D. 1860)

"An Act Establishing the Maine Student Incentive Scholarship Program." (S. P. 423) (L. D. 1481).

On Motion of Mr. Huber of Cumberland, placed on Special Appropriation-Table pending Enactment.

"An Act to Avoid Delays in Payment of Workmen's Compensation Claims because of

the Involvement of Two or More Insurance Carriers." (H. P. 1261) (L. D. 1490).

"An Act to Permit Farmers to Shoot Marauding Animals." (H. P. 1242) (L. D. 1467).

"An Act to Repeal Certain Laws Relating to Transportation." (H. P. 1056) (L. D. 1288).

"An Act to Amend the Laws Relating to Criminal History Record Information." (H. P. 1629) (L. D. 1832).

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

"An Act to Prohibit the Sale of Gasoline Below Cost to Destroy Competition." (H. P. 455) (L. D. 560)

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

Mr. MANGAN: Mr. President, I would ask through the Chair to anybody on the Committee who can answer to explain the purpose of this Bill.

The PRESIDENT: The Senator from Androscoggin, Senator Mangan, has posed a question through the Chair.

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

Mr. O'LEARY: Mr. President, I move L. D. 560 and all its accompanying papers be indefinitely postponed.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, now moves that L. D. 560 be indefinitely postponed. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I believe the good Senator from Penobscot, Senator Trozky, is Chairman of the Energy Committee and I wonder if he could respond to the good Senator from Androscoggin.

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

The Chair recognizes that Senator.

Mr. TROTSKY: Mr. President and Members of the Senate, this Bill probably will result in an increase in gas cost to the consumer.

The PRESIDENT: Is it now the pleasure of the Senate that this Bill and all its accompanying papers be indefinitely postponed?

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion of the Senator from Oxford, Senator O'Leary, that this Bill and all its accompanying papers be indefinitely postponed, please rise in their places to be counted.

Will all those Senators opposed to the Motion that this Bill and all its accompanying papers be indefinitely postponed, Please rise in their places to be counted.

10 Senators having voted in the affirmative, and 17 Senators in the negative, the Motion to indefinitely postpone does not prevail.

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

Mr. MANGAN: Mr. President, from the excellent explanation I was given by the Honorable Senator from Penobscot, Senator Trozky, and from the impression that I get that this Bill would equalize all gasoline prices and probably socialism or thereabouts, I would request that this matter be tabled for One Legislative Day to allow me to investigate —

The PRESIDENT: The Chair would advise the Senator that he is debating a tabling Motion.

The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President, I move this item be tabled for One Legislative Day.

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

Mr. CONLEY: Mr. President, I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of tabling this item for One Legislative Day, please rise in their places to be counted.

Will all those Senators opposed to tabling this item for One Legislative Day, please rise in their places to be counted.

16 Senators having voted in the affirmative, and 12 Senators in the negative, the Motion to table does prevail.

Resolve, "Authorizing the Secretary of State to Convey the State's Interest in a Lot in Waldoboro, Lincoln County, to Clarify Title." (H. P. 1193) (L. D. 1426).

On Motion of Mr. Pray of Penobscot, Tabled One Legislative Day. Pending passage.

Emergency

"An Act to Clarify the Criminal History Record Disclosure Law." (H. P. 1039) (L. D. 1280).

On Motion of Mr. Conley of Cumberland, Tabled One Legislative Day. pending enactment.

Orders of the Day

The President laid before the Senate: HOUSE REPORTS — from the Committee on Judiciary — Bill, "An Act Relating to Judicial Review of Public Utilities Commission Decision." (H. P. 226) (L. D. 290) Majority Report — Ought to Pass; Minority Report — Ought Not to Pass

Tabled — Earlier in the Day by Senator Speers of Kennebec Pending — Motion of Senator Collins of Knox to Accept Minority Report.

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

Mr. CURTIS: Mr. President, I request a Division.

It seems to me that this is an issue which is very detailed and very complex, and although it has been the subject of much discussion, both in Committee and in other rooms and in the Halls of the Legislature, I think it would be helpful if we had a little review of what is involved here.

The proposal is one which comes to you as the Majority Report from the Judiciary Committee, a Report which I signed, which Report would provide for the elimination of Section 305 of Title 35 of the Maine Statutes regarding the Public Utilities Commission and the law which it controls. Basically the question, as I see it, is one of whether or not the Supreme Judicial Court of the State would be able to substitute its judgment for that of the Public Utilities Commission on issues of fact, as well as issues of law.

It seems to me that we have created a Public Utilities Commission which has the necessary expertise in matters of economics and finance, and is able to determine factual matters, and that questions of law and law alone should be left to the law Court, so I would suggest that it would be helpful to the Public Utilities Commission to turn down the pending Motion, and then to accept the Majority Report, and, if it seems to be necessary, in some way to amend the Bill at a future time.

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

Mr. CONLEY: Mr. President and Members of the Senate, today is the day when the Maine Senate has a fine opportunity to justify its existence. By passing the Utility Bill that is before us today, we can substantially reduce the utility bills which are being passed on to our citizens. We can actually save our citizens more

money today than they are paying in taxes to fund this Legislative Session.

I would like first, however, to commend our Governor with his appointment of Mr. Ralph Gelder to the Chairmanship of the Maine Public Utilities Commission. We have a Commission which is not only skilled in the interpretation of financial information, but which is inclined to treat our Maine consumers on an equal basis with people who own shares in our large utility companies. With the appointment of Mr. Gelder, the utility companies have discovered that they cannot casually use Maine consumers as a source of interest free capital. They have discovered that requests for rate increases can be turned around into orders of rate decreases. Perhaps most alarming of all, they have discovered that the PUC is willing to question Ma Bell's finances, just as closely as the finances of some of the smaller companies.

It is understandable that the utilities are unhappy with the recent PUC decisions and are taking these decisions to court. It is their right to do so, and perhaps they have a good case. In the words of the dissenting PUC Commissioner, the PUC rate reduction amounts to strangulation as opposed to regulation. Perhaps there is a real question of property confiscation going on. I cannot tell. I am not an expert on utility regulation, and this Legislature is not an expert on that subject either, and this is the point I wish to make to the Supreme Court; if the utilities want to have the Court review the legal reasons for the PUC decisions, then the utilities should have their day in Court, but I think we have a right as a Legislature to set the perimeters for this Court review, just as we earlier this Session set the scope for Tort Claims.

With reference to L. D. 290, this Bill provides that the Court will handle PUC review just as it does most other appeals of decisions made by administrative bodies. The Court has a right and duty to review the PUC decision on questions of law as provided under Section 303 of the Statutes at hand. What the Court should not do, however, is venture into question of fact. The court has no expertise in this area and should have no jurisdiction in this area. If the Court is going to get into the review of questions of fact then we are really turning the Court into a Supreme Public Utilities Commission as happened in Massachusetts. I do not think this is a good thing for the Courts, our consumers, or in the long run for our utility firms.

If the Court is going to get into the question of fact, then every rate case which is unfavorable to the utilities is going to wind up in the Courts, and the proceedings are going to drag out for years rather than proceed as is presently the case. You can guess who is paying for the lawyers; the consumers. The proposal before you has been checked out as to the constitutionality and is completely in line with the proper division of powers between the Administrative and Judicial bodies. It will permit the judges to act as judges, rather than as accountants.

So, Mr. President and Members of the Senate, I would urge you to vote against the pending Motion, and when the vote is taken, I request it be taken by the yeas and nays.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, when this matter came before the Judiciary Committee, it was clear that the Bill was sponsored at the behest of Commissioners Gelder and Bradford of the Public Utilities Commission.

Their reasons seemed to be that they felt that this Bill would strengthen the Public Utilities Commission. I am in favor of strengthening the Public Utilities Commission, and for a while I thought perhaps I could support this Bill. However, I decided to read the cases that were

brought up as precedents and historical pieces in the background of this law, and I did undertake to read those independently of the material that we provided in very voluminous briefs by both the utilities and by the Commission. It seemed to me that this measure would not strengthen the Public Utilities Commission, that on the contrary it would probably tend to breed more litigation in the Courts than we now have.

This particular Section of the Act had its origin about 1953, and according to the sponsor of the Bill, and I did not check this personally, since 1953 up until the year 1956, I believe, the Law Court and decided seven cases under this broad review power. While in one case the Court did require the Commission to hear additional evidence, because there was a subsequent settlement of that particular case based on the rules of law that the Law Court announced. It never made an independent judgment on the facts based on an enlarged record.

As I read the cases it seemed to me that our Law Court had been very careful not to constitute itself as an expert fact finding body, that it had been careful to look at the whole record, read the facts, and to see whether the law was being correctly applied, and whether the record was adequate to support the action of the Commission. Now since there is another Section of the statute that permits an appeal, why do we need both Sections?

The other Section of the statute, Section 303, the regular appeals provision is from final orders, decrees of the Commission. It is like trying a case in the Superior Court, and when you get all through then you may go up on appeal to the Law Court. But the value of Section 305, I think, is evident in the case that is now in the newspapers. It seems to me that we see here a case where this Section is of value to both sides, or maybe there is more than two sides in the issues. For example, if the telephone company had followed the original suggestion that it might put its \$27 million rate increase into effect on a Friday morning, it certainly would have been the Public Utilities Commission lawyer rushing to the Law Court to get a stay order, and claiming that the Law Court had jurisdiction under Section 305. There are cases also where intervenors, who may be individual cities or individual industries or even rate payers who can show a particular standing, might want to take advantage of this provision. As I recall it, there is a Section in the Law that provides that any frivolous appeal taken up under this Section is subject to penalty of double cost or something of that nature.

In a rate case, the facts are of vital importance, and it is very difficult to distinguish between questions of constitutionality and confiscation, and look at the matter as a pure ethereal legal proposition as against reading the entire record and trying to make a judgment whether the facts as found by the Commission are really supported and all the facts necessary for determination of the Constitutional question are there. Our Law Court has shown that if it has a doubt about whether all the facts needed are there, it will send the case back to the Commission for its expert procedures in getting out a record and further fact finding.

Now if we repeal this Section, we not only repeal the stay powers of the Chief Justice, which have been exercised in my judgment to the great benefit of the public in the current newspaper case, but also we open the door to one of the original reasons for the act in the first place. When a Court proceeds under Constitutional question cases, it is exercising what we call equitable jurisdiction. This means that the Court for a very strong reason is saying to one or more of the parties you must do this, or you must not do that, and if we did not have this guideline that takes it up to the Law Court, and

particularly to the Chief Justice, on these stay orders, I am sure that the contending parties who felt that the Constitutional position was in question would instead go to a Superior Court Judge seeking the same kind of relief, and, as a result, we might very well get bifurcated litigation, one piece of it in the Law Court under the other Section on appeal, and what was formerly the Section 305 portion in a Superior Court under a request for an injunction claiming confiscation and Constitutional violation.

Now this view is supported by language from the Law Court itself. The Law Court said in the case of Lewiston, Greene and Monmouth Telephone Company, which incidentally was not a public against utility case, but a case of two utilities fighting between themselves, the Court said in an opinion written by one of our best informed jurists in this area, "if Section 305 is repealed, a procedural morass is created because utilities would (1) appeal on questions involving errors of Law to the Supreme Judicial Court, and (2) seek relief in the Superior Court from alleged confiscation with an appeal later to the Supreme Judicial Court. Such a bifurcation of the appeal process is clearly undesirable."

I think this is one of the most important things we must consider if we favor a stronger Public Utilities Commission, a Commission that can get its work done, what we need to support is more money and staff for the Commission, but not a throw-back to former days which will engender more appeals to more judges on more issues, and further delay the time and staff work of the Commission. For these reasons I ask you to support the pending Motion.

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

Mr. MERRILL: Mr. President and Members of the Senate: I promise to be brief on this issue. I think it is an important one, and I think maybe in spite of the exhaustive review just made by the Chairman of the Judiciary Committee that we could put a couple of issues in better focus for the Senate.

First of all, I think that it is clear that it is important for the Senate to understand that when you clear away the smoke on this issue, that it really is asking the Senate to do two things. One, to take away from the Supreme Court the authority to make an independent review on the facts. In essence, if they so desire, a decision de novo on the facts on cases that are brought to them through this section. I think that it is important to understand that because of the way 305 is worded and the basis on which the appeals to the Supreme Court for this purpose are brought, that in most cases the utility, the party being regulated, is in much better position to have this review on the facts than someone from the other side of the issue. In other words, the issue is brought before the Supreme Court for an independent review on the facts on the basis of the Constitutional confiscation. In other words, if the rates are set so low that, in fact, we are denying these people a right to make a return on their capital which would be confiscation of property which is denied, and so I think it is important to understand that 305 operates in behalf of the utilities and would not, in most cases according to most legal authorities, be available to operate in behalf of the other side of the question. In other words, it is not even-handed.

I think it is also important to understand that as well as the question of the independent review of the facts, when there is a question of Constitutional confiscation, that the other thing that this Bill would do is that it would stop the Supreme Court in cases as it has done just recently from issuing a stay order. Now I have some trouble with that. If in fact all we do ultimately is remove the ability of the Supreme Court to have a stay order, and we do not give

them the power, should they ultimately decide on the questions of law differently than the decision that has been made by the PUC. In other words, they make a decision on the law which changes what the ultimate rate would be. I think that they should have the power, the PUC should have the power to provide for surcharges or refunds.

If we can reject the Ought Not to Pass Report today and get this Bill on its way, I will offer an Amendment tomorrow to Section 304, which would create a subsection 304a, which would make possible the surcharges and refunds, and thus would remove the possible calamities that were referred to by the previous speaker, and the procedure then would be that the PUC would make its decision, the companies that were aggrieved or thought they were aggrieved could appeal on the question of law, and on the questions of fact, as to the Supreme Court finding that there is sufficient fact available to justify the decision, and if the Supreme Court's decision should affect the ultimate outcome, then the Public Utilities Commission can make an adjustment.

Now this is not a radical procedure that we are talking about here. It is a procedure that is followed in most States. It is the procedure that is followed in Maine in regards to most of our regulations. Now I think that there are several reasons why we should do this. Let me just briefly state a couple.

First of all, make no mistake, I think it is very clear in spite of the fact that footnote 8 of a Supreme Court decision, a Maine Supreme Court decision has been read into the record, I think it is clear from reading the decisions that were made subsequent to that, that the Supreme Court of our State has held that the statements there are not a Constitutional requirement under our law, and that, by the way, opinion that there is no Constitutional requirement for this review is upheld by the Attorney General and is upheld, as a matter of fact, in a case note in a Maine Law Review that came out November 1, 1976, in other words, the most recent Law Review, in which that case note writer decided in the conclusion of the article as a matter of policy that we ought to repeal this Section 305, and in the words of this article "restore utility rate making decisions to the PUC where they belong." So, I think that there is no Constitutional problem with this Bill. I think there is no Constitutional requirement. I think that the effect of passing this Bill will be to end a great deal of time that we are looking ahead for in the Supreme Court.

We just recently added another judge to the Supreme Court because of the case load. Think back how much time the PUC has spent determining the facts in these very complicated cases. As a matter of fact, think back to the remarks of the previous speaker in which he talked about the need for new staff for the Public Utilities Commission, new accountants, etc. Those people are being hired, in essence, to help the Public Utilities Commission to find the facts. Are we going to suggest that the Supreme Court should be put in a similar position, to make a similar judgment as to the facts. I suggest if we are, we had better be prepared to add not only some more Supreme Court Judges, but to give them accountants and lawyers who are experts in this area so that they can make the same sort of determination.

Finally, I think that if we want to justify the PUC, and the PUC is really set up as a quasi-judicial body that sits, has these hearings and these problems brought before it and makes decisions in a quasi-judicial way, that if we are going to have this Body, then we ought to give its findings of facts some weight in the law, and if we are not going to have the Body, then I suggest that we can go on and let the Supreme Court of the State of Maine make these decisions. I do not think that is the appropriate place for these decisions to be made, and I think

that we ought to pass this Bill today and hopefully we can amend it tomorrow to provide for some of the objections raised by the PUC.

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

Mr. MANGAN: Mr. President and Members of the Senate: I would just like to clarify something here. Basically, what we are supporting in the Minority Report is the right of the Public Utilities to seek review of the judgment of the Public Utilities Commission.

Secondly, a couple of the previous speakers have indicated that if we do not pass this Legislation, we are going to have this run to the Supreme Court, and one of the documents that was passed around by the Minority Leader, which is a quotation from PUC Chairman Ralph Gelder, says that once this starts every utility in the State will just run by the PUC and go to the Courts.

I want to make sure that everybody realizes that this law has been on the Books since 1953, and I do want to emphasize the fact that if there has been a run so far, I am sure that it is not going to increase any. I do want you to realize that, and I would urge you to support the Ought Not to Pass.

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

Mr. COLLINS: Mr. President, I had the feeling as I listened to the Senator from Cumberland, Senator Merrill, that there might be a misimpression that the Law Court was about to become a Utilities Commission. I think that the statute in question clearly prevents that.

The second paragraph of the Section says "no evidence beyond that contained in the record of the proceedings had before the Commission shall be introduced before the Court, except that in cases where issues of confiscation or of Constitutional right are involved, the Court may order such additional evidence as it deems necessary for the determination of such issues to be taken before the Commission", so they are not trying to be a PUC. They are trying to apply the law, see if it has been applied correctly by the PUC, and if it has not, to tell the PUC where they went wrong, and I think that this influence of having a Court there to see that you do the right thing legally is a very healthy public policy, and one that we ought not lightly to set aside.

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

Mr. MERRILL: Mr. President, it should be clear to the Senate. I think, when they vote on this item, that leaving aside the question of new evidence, you could look at the amount of evidence that is offered by the batteries of lawyers that participate in PUC cases in order for our high Court to become expert in the evidence that is available, it would take a matter of many, many weeks. As a matter of fact, the Public Utilities Commission is before the Appropriations Committee telling us that they need more expertise, not to get more facts, not to get more evidence on these cases, but be able to deal with the voluminous amount of evidence that is presented as a matter of course in these hearings, then to go through it and find what is applicable and to make the proper business judgments that have to be made in determining what is the proper determination of rates. That is the load that I am concerned about. I am not concerned about the Supreme Court thinking that they have to go back and get more evidence. I am concerned about the load that it puts on them having to make an independent judgment on the evidence that is presented.

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 present 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 pending question before the Senate is the Motion by the Senator from Knox, Senator Collins, that the Senate accept the Minority Ought Not to Pass Report of the Committee.

A yes vote will be in favor of accepting the Ought Not to Pass Report. A nay vote will be opposed.

The doorkeepers will secure the Chamber.
The Secretary will Call the Roll.

ROLL CALL

YEA — Collins, D.; Collins, S.; Greeley, Hewes, Hichens, Huber, Jackson, Lovell, Mangan, McNally, Minkowsky, Morrell, Snowe, Trotzky, Wyman.

NAY — Chapman, Conley, Cummings, Curtis, Danton, Farley, Levine, Martin, Merrill, O'Leary, Pierce, Pray, Speers, Usher.

ABSENT — Carpenter, Katz, Redmond.

15 Senators having voted in the affirmative, and 14 Senators in the negative, with 3 Senators absent, the Motion to Accept the Minority Ought Not to Pass Report does prevail.

The President laid before the Senate:

House Reports — from the Committee on Public Utilities — Bill, "An Act Prohibiting a Utility from Automatically Passing on Fuel Cost Increases to Customers by a Fuel Adjustment Clause." (H. P. 1090) (L. D. 1314) Majority Report — Ought Not to Pass, Minority Report — Ought to Pass

Tabled — Earlier in the Day by Senator Speers of Kennebec

Pending — Acceptance of Either Report

On Motion of Mrs. Cummings of Penobscot, Majority Ought Not to Pass Report accepted in non-concurrence.

Sent down for concurrence.

Reconsidered Matter

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

Mr. MORRELL: Mr. President, with regard to House Reports — from the Committee on Judiciary — Bill — "An Act Relating to Judicial Review of Public Utilities Commission Decisions" (H. P. 226) (L. D. 290)

I would move that we reconsider our action whereby we accepted the Minority Report and hope that you will vote against me.

The PRESIDENT: The Senator from Cumberland, Senator Morrell, now moves the Senate reconsider its action whereby it accepted the Minority Ought Not to Pass Report of the Committee in reference to L. D. 290.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President; I move this item lie on the table for One Legislative Day.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, now Moves that this item be tabled for One Legislative Day pending the Motion to reconsider.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I request a Division.

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

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 on the Tabling Motion. 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 present 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 pending question before the Senate is the Motion by the Senator from Cumberland,

Senator Merrill, that L. D. 290 be tabled for One Legislative Day.

A yes vote will be in favor of tabling the Motion for One Legislative Day. A nay vote will be opposed.

Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Chapman, Conley, Danton, Farley, Levine, Merrill, O'Leary, Pray, Usher.

NAY — Collins, D.; Collins, S.; Cummings, Curtis, Greeley, Hewes, Hichens, Huber, Jackson, Lovell, Mangan, Martin, McNally, Minkowsky, Morrell, Pierce, Snowe, Speers, Trotzky, Wyman.

ABSENT — Carpenter, Katz, Redmond.

9 Senators having voted in the affirmative, and 20 Senators in the negative, with 3 Senators absent, the Motion to table for One Legislative Day does not prevail.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I would like to speak to the Motion to reconsider, very briefly, if I could.

The Roll Call that we took was a very close one. There are several Senators who are not present in the Body, and I would hope that we could reconsider our action, and that we could get this Bill to a place where we could try to amend it and put it into a form where it will be of service to the people of Maine. This is a very important question to the people right now.

I think it is one that certainly the Senate could justify spending one more day on and put an Amendment on it and see if that puts it in a posture where we could deal with it. It is very close, and I would hope that some of the Senators who voted for Ought Not to Pass would see their way clear to reconsidering that action, and to allow us to get this to a position whereby we can amend it and whereby some more Senators will have a chance to vote on it.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Morrell that the Senate reconsider its action whereby it accepted the Minority Ought Not to Pass Report of the Committee.

The Chair will order a Division.

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

The Chair recognizes the Senator from Cumberland, Senator Morrell.

Mr. MORRELL: 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 present 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.

A vote of yes will be in favor of reconsideration. A vote of no will be opposed.

The doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Chapman, Conley, Cummings, Curtis, Danton, Farley, Greeley, Levine, Martin, Merrill, O'Leary, Pierce, Pray, Speers, Usher.

NAY — Collins, D.; Collins, S.; Hewes, Hichens, Huber, Jackson, Lovell, Mangan, McNally, Minkowsky, Morrell, Snowe, Trotzky, Wyman.

ABSENT — Carpenter, Katz, Redmond.

15 Senators having voted in the affirmative, and 14 Senators in the negative, with 3 Senators being absent, the Motion to reconsider does prevail.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I move this matter now be tabled for One Legislative Day.

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

Mr. MERRILL: Mr. President, I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion to table this matter for One Legislative Day, please rise in their places to be counted.

Will all those Senators opposed to the Motion to table this matter for One Legislative Day, please rise in their places to be counted.

19 Senators having voted in the affirmative, and 10 Senators in the negative, the Motion to table for One Legislative Day does prevail.

The President laid before the Senate:

House Reports — from the Committee on Public Utilities — Bill, "An Act Granting Implied Powers to the Public Utilities Commission." (H. P. 295) (L. D. 352) Majority Report — Ought to Pass; Minority Report — Ought Not to Pass

Tabled — Earlier in the Day by Senator Speers of Kennebec

Pending — Acceptance of Either Report

On Motion of Mrs. Cummings of Penobscot, Majority Ought to Pass Report Accepted.

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

The President laid before the Senate:

House Reports — from the Committee on State Government — Bill, "An Act to Promote the Preservation of Historic Districts within the State of Maine." (H. P. 1192) (L. D. 1440) Majority Report — Ought to Pass; Minority Report — Ought Not to Pass

Tabled — Earlier in the Day by Senator Speers of Kennebec

Pending — Motion of Senator Collins of Aroostook to Accept Minority Report

On Motion of Mr. Martin of Aroostook, This Bill and all accompanying papers indefinitely postponed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate:

House Reports — from the Committee on Transportation — Bill, "An Act to Provide for Local Registration of All Motor Vehicles." (H. P. 847) (L. D. 1038) Majority Report — Ought to Pass as Amended by Committee Amendment "A" (H-567) Minority Report — Ought Not to Pass

Tabled — Earlier in the Day by Senator Speers of Kennebec

Pending — Acceptance of Either Report

The PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Greeley.

Mr. GREELEY: Mr. President, I move that the Senate accept the Minority Ought Not to Pass Report of the Committee.

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

Mr. CONLEY: Mr. President, I wonder if the good Senator from Waldo, Senator Greeley, might give the reasons for wanting to accept the Minority Report on this particular Bill.

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

The Chair recognizes the Senator from Waldo, Senator Greeley.

Mr. GREELEY: Mr. President, after listening to the testimony of the Secretary of State, I decided to sign the Ought Not to Pass Report. As near as I can figure out, this will create more problems than it will help.

One of the problems is with the title law. The Secretary of State's office has 15 people working for them now to handle the title situation now on new automobiles. If somebody comes in from out of state with a new car and tries to get

a title on it, it would really cause problems, I think, at the local level.

There is no cost on the Bill, but the Secretary of State's office says that there is a cost, and he went back down from the figures according to him. The first year they gave to the budget office a cost of \$60,198.00 for personnel. The second year of the biennium \$63,000.00. Another problem, after you get these people trained, of course in the smaller town you have an election every year, and if you change personnel, Collectors and so forth at the local level, they have to be retrained. So that is my reason I signed the Ought Not to Pass Report.

And another thing, I think we have done pretty good for these people. At the local level, it's permissive anyway that they can re-register automobiles. We have a Bill on the Highway Table here that they can register trucks, providing they keep the same gross weight, and now in this amendment we are registering pick up trucks, 6,000 pounds or less, and I feel they have done a pretty good job as far as registering vehicles is concerned, and I also feel we have gone far enough.

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

Mr. CONLEY: Mr. President and Members of the Senate: The Bill to me appears to be, first, simply enabling legislation that allows the community to get into the business of distributing license plates instead of having the Secretary of State's office do them, or the Motor Vehicle Registry doing it.

A couple of years ago, and I can remember for practically all my youth, that we used to watch the voters come in on the middle of March to register their vehicles and pick up their plates down on Congress Street, and for about a week steady in sub-zero temperatures people lined up freezing their feet and hands and so forth and their bodies, and then we came along and passed a law that allowed people then to go to their town clerks or city clerks to pick up what we call the tabs now that we put on the plates, and each of the communities I guess, the city hall picks up a dollar or makes a dollar for every transaction that it does.

I can personally understand the parochialism from the Secretary of State's office in their opposition to this Bill, because if anything to me it would perhaps save money for the State, and perhaps allow us to cut down on some of the number of State employees within the Division of the Secretary of State's office.

Again, my understanding is it is simply enabling legislation that could be set up as a pilot project within communities who wanted to try this venture, and it would seem to me that if it were tried and proved successful, then perhaps the Legislature itself would like to review that at another time to see what degree of success we have had. If it does not work out, then obviously we can always turn it down.

It is my hope that the Senate would reject the Motion, and I would request a Division.

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

Mr. HICHENS: Mr. President, I would support the Motion that has been made. Some of our town clerks in my area have already complained that the dollar they get for just renewing license or license plates is insufficient for the time that it takes them, and I am sure that if we pass this Bill there is going to be a further holler from them. They would have to have the plates, the stickers, things like that to take care of them. They would have that responsibility of watching out for these plates, for getting these registrations in the proper order and so forth, and I have found enough problems in our Secretary of State's office in getting new registration, from complaints of people back home, without having the town clerks involved in it.

The PRESIDENT: The Chair recognizes the

Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, apparently the good Senator from York, is not aware of the fact that people have to go to the town clerk today to register their vehicles under the excise tax. Certainly there is no added expense to the clerks office to give them a tab, and they make a dollar on it.

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

Mr. MCNALLY: Mr. President, I have got to concur with what the good Senator from Waldo told you. It is not the fact that we are back in the days when we used to stand in line and everybody waited to the last minute to go get their licenses. It is due to the fact that we now have to have a title law, and that was passed a year and a half or so ago, and that is what the trouble is, and if we do let this Bill get by, I am afraid they are going to have to increase the number of people they are hiring right now in the Secretary of State's office to take care of the title law.

The PRESIDENT: Is the Senate ready for the question?

A Division has been requested.

The pending Motion before the Senate, is the Motion by the Senator from Waldo, Senator Greeley, that the Senate accept the Minority Ought Not to Pass Report of the Committee.

Will all those Senators in favor of the Motion to accept the Minority Ought Not to Pass Report, please rise in their places to be counted.

Will all those Senators opposed to the Motion to accept the Minority Ought Not to Pass Report, please rise in their place to be counted.

14 Senators having voted in the affirmative, and 14 Senators in the negative, the Motion to accept the Ought Not to Pass Report does not prevail.

Is it now the pleasure of the Senate to accept the Majority Ought to Pass as amended Report of the Committee?

The Chair is in doubt and will order a Division.

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

Will all those Senators opposed to accepting the Majority Ought to Pass As Amended Report of the Committee, please rise in their places to be counted.

15 Senators having voted in the affirmative, and 14 Senators in the negative, the Motion to accept the Majority Ought to Pass As Amended Report of the Committee does prevail.

The Bill Read Once.

Committee Amendment "A" Read and Adopted, and the Bill, as amended, Tomorrow Assigned for Second Reading.

The President laid before the Senate: Bill, "An Act to Revise the Maine Tort Claims Act." (Emergency) (H. P. 1689) (L. D. 1874)

Tabled — Earlier in the Day by Senator Collins of Knox

Pending — Passage to be Engrossed

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

Mr. COLLINS: Mr. President I present Senate Amendment "A" (S-252) and in accordance with Joint Rule 4, I move that this matter lie on the table for three legislative days.

The PRESIDENT: The Senator from Knox, Senator Collins, now presents Senate Amendment "A" to L. D. 1874.

The Secretary will read Senate Amendment "A".

Senate Amendment "A" Read.

The PRESIDENT: The Senator from Knox, Senator Collins, now moves that this item be tabled for three legislative days, pending adoption of Senate Amendment "A". Is this the pleasure of the Senate.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, is the parliamentary procedure that we are in is that this is being tabled for three days so that we may reconsider a matter that we have already rejected as of yesterday?

The PRESIDENT: The Chair would advise the Senator according to Rule 4 of the Joint Rules that three days notice should be given to the House of the moving member of any item which has been previously debated.

The Chair recognizes the same Senator.

Mr. MERRILL: Mr. President, in that case I would ask for a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion to table this item for Three Legislative Days pending adoption of Senate Amendment "A", please rise in their places to be counted.

Will all those Senators opposed to the Motion to table this item for three legislative days pending adoption of Senate Amendment "A", please rise in their places to be counted.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: 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 present 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 Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, would it be in order at this time that I ask that the Amendment be read in full?

The PRESIDENT: The Chair would answer in the affirmative. The Secretary will read the Amendment.

Senate Amendment "A" read.

The PRESIDENT: The pending question before the Senate is the motion to table L. D. 1874 for three legislative days pending adoption of Senate Amendment "A".

A yes vote will be in favor of tabling for three legislative days. A nay vote will be opposed.

The doorkeepers will secure the Chamber.

The Secretary will call the roll.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, would it be in order to suspend the rules and to consider the amendment at this time?

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

Mr. CONLEY: Mr. President, a parliamentary inquiry, it is my understanding it is a Joint Rule.

The PRESIDENT: The Chair would answer in the affirmative. The Senate will be at ease pending some research.

(At Ease)

The PRESIDENT: The Chair will respond to the Senator's question that on page 214 in Masons, Section 283, the Motion to suspend the rules, Number 1, the motion to suspend the rules may be made at any time when no question is pending, or while a question is pending provided it is for a purpose connected with that question.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: I request unanimous consent to briefly address the Senate on the record.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, now requests unanimous consent to address the Senate on the record. Is there objection? The Chair hears none. The Senator may proceed.

Mr. MERRILL: Mr. President and Members of the Senate: I know that it is the custom in this body not to debate tabling motions, but what we have before us is slightly extraordinary. I just want to offer a brief explanation so all the Senators will know what we are voting on.

If we table this for three days, it is for the purpose of complying with Rule 4 of our Joint Rules, which allows a way to get around the rule which makes it impossible to reconsider something which has already been rejected. What we rejected yesterday was the notion that State employees could be sued. If you think that that decision ought to be changed in this bill, you will vote to table this for three days, and then vote for the amendment that is being offered by the Senator from Knox. If you think that we took the proper position yesterday, you will vote against tabling for three days, stick with the position that we previously took and get on with the matter at hand.

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

Mr. COLLINS: Mr. President, I request unanimous consent to address the Senate on the record.

The PRESIDENT: The Senator from Knox, Senator Collins, requests unanimous consent to address the Senate on the record. Is there objection? The Chair hears none. The Senator may proceed.

Mr. COLLINS: Mr. President, a few minutes ago the good Senator from Cumberland, Senator Merrill, when he was in the position that I am in now, pointed out that there were people absent from the Chamber, and yesterday there were people absent from the Chamber that were on my side of the issue, and I would further say that the reason that I attempt this particular maneuver — it is the first time I have ever attempted it, is that at least two Senators have explained to me in the interim that there were some things they did not understand about the bill, and I think they deserve an opportunity to have another consideration of the measure.

The PRESIDENT: The pending question before the Senate is the motion to table L. D. 1874 for three legislative days, pending adoption of Senate Amendment "A".

A Roll Call has been ordered.

A yes vote will be in favor of tabling for three legislative days. A nay vote will be opposed.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, a point of order.

The PRESIDENT: The Senator may state his point of order.

Mr. CONLEY: Mr. President, I do not have the rule in front of me, but it was my understanding or it is my understanding that in order to have something reconsidered that has been disposed of at one time, that it must be done by Order.

The PRESIDENT: The Chair will read the Joint Rule 4 to the Senator, and also advise that the bill is not disposed of and put in the Legislative file, which does require two-thirds vote in both branches.

The Chair recognizes the same Senator.

Mr. CONLEY: Excuse me, Mr. President, a further inquiry. Was the Amendment itself rejected and reconsidered?

The PRESIDENT: The Amendment itself has been offered for the first time as far as the Chair is concerned.

The Chair recognizes the same Senator.

Mr. CONLEY: Mr. President, the item that we disposed of yesterday would have been the opposite signing of the Report, both Ought to Pass but one including —

The PRESIDENT: The Chair would advise the Senator that yesterday the Senate accepted

the Minority Ought to Pass in New Draft Report of the Committee.

The Chair recognizes the same Senator.

Mr. CONLEY: Mr. President, therefore, it rejected the Majority Ought to Pass Report.

The PRESIDENT: That is true. The Chair recognizes the same Senator.

Mr. CONLEY: Mr. President, it is my understanding now that what we are presently considering is a Report that is trying to be implemented into this Bill, a Report that was already rejected by the fact that the Senate had accepted the other Report.

The PRESIDENT: The Chair would advise the Senator that in the Chair's judgment Rule 4 of the Joint Rules would apply in this instance.

A yes vote will be in favor of tabling the adoption of Senate Amendment "A" for Three Legislative Days. A nay vote will be opposed.

The doorkeepers will secure the Chamber.

The Secretary will Call the Roll.

ROLL CALL

YEA — Collins, D.; Collins, S.; Curtis, Greeley, Hewes, Hichens, Huber, Lovell, Morrell, Pierce, Snowe, Trotzky, Wyman.

NAY — Chapman, Conley, Cummings, Danton, Farley, Jackson, Levine, Mangan, Martin, Merrill, O'Leary, Pray, Speers.

ABSENT — Carpenter, Katz, McNally, Minkowsky, Redmond, Usher.

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

Mr. JACKSON: Mr. President, I wish to change my vote from no to yes.

The PRESIDENT: The Senator from Cumberland, Senator Jackson, changes his vote from nay to yea.

14 Senators having voted in the affirmative, and 12 Senators in the negative, with 6 Senators being absent, the Motion to table for Three Legislative Days does prevail.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members animous consent to address the Senate on the record.

The PRESIDENT: The Senator from Cumberland, Senator Conley, requests unanimous consent to briefly address the Senate on the record. Is there objection? The Chair hears none. The Senator may proceed.

Mr. CONLEY: Mr. President and Members of the Senate, I notice that the item that is no longer before us is an emergency measure. That has no bearing to me, but what does bother me and what does disturb me is I think we have established a very, very bad precedent here today, because I feel that the Rules can be bended and worked around to any way we would like them to come out. I think we have established a bad precedent by rejecting something one day, and then turning around the following day and inserting it back into the wishes of the group that were on the prevailing side. I think it is a very, very bad thing to establish.

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

Mr. SPEERS: Mr. President, I request unanimous consent to address the Senate on the record.

The PRESIDENT: The Senator from Kennebec, Senator Speers, requests unanimous consent to address the Senate on the record. Is there objection? The Chair hears none. The Senator may proceed.

Mr. SPEERS: Mr. President, I would agree with the Minority Leader that we have established a very bad precedent here today, and I would hope that the establishment of this would really not prove to be a precedent, and that is the fact that we have established this afternoon meets the practice of debating tabling Motions, and I have never seen anything quite as blatant as has occurred here this afternoon with regard to ignoring that particular rule, and I would seriously hope that it never happens again.

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

Mr. MERRILL: Mr. President, I would inquire through the Chair specifically what Rules the Majority Leader refers to.

The President laid before the Senate:

Bill, "An Act Relating to an Increase in the Volume Fees Paid by Major Creditors under the Maine Consumer Credit Code." (H. P. 180) (L. D. 242)

Tabled — Earlier in the Day by Senator Conley of Cumberland

Pending — Motion of Senator Farley of York to Reconsider Indefinite Postponement

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

Mr. PIERCE: Mr. President and Members of the Senate, I think that there is probably not too much more that can be said on this Bill that was not said in debate this morning.

I just would like to say a couple of things, however. Whenever a new Bureau is set up, the funding mechanism is always very difficult to determine whether or not it is going to be properly funded. This is a relatively new Bureau, and a couple of adjustments have had to be made, and we have seen these adjustments made before the Business Legislation Committee in the past.

This particular Bill, in its original form, was rejected by the Committee, but again we overwhelmingly thought 11 to 2 that there was something wrong with the present funding, and hope that the Senate will tonight look at the bottom line here, and that is the merits of the Bill, and look beyond personalities, because to improperly fund this Bureau and have them borrow and then pay back, and borrow and pay back really does not make any sense at all. We feel with the passage of this small measure, which would raise the maximum of about \$19,000.00, it is not going to increase by one person the number of people in the Bureau. All it is going to do is keep them from having to borrow and pay back, which really does not make too much sense. So I hope that the Senate will reconsider its action.

The PRESIDENT: The pending question before the Senate, is the Motion by the Senator from York, Senator Farley, that the Senate reconsider its action whereby the Senate indefinitely postpone L. D. 242.

The Chair will order a division.

Will all those Senators in favor or 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 11 Senators in the negative, the Motion to reconsider does prevail.

The Bill Passed to be Engrossed as amended in concurrence.

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

Mr. CONLEY: Mr. President, I now move that the Senate reconsider its action whereby this Bill was passed to be Engrossed.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate reconsider its action whereby this Bill was passed to be Engrossed.

A viva voce vote being had,

The Motion to reconsider does not prevail.

The President laid before the Senate:

Bill, "An Act to Regulate Affiliated Interests of Public Utilities." (S. P. 539) (L. D. 1870)

Tabled — Earlier in the Day by Senator Speers of Kennebec

Pending — Passage to be Engrossed.

Passed to be engrossed as amended.

Sent down for concurrence.

The PRESIDENT: Is it the pleasure of the

Senate that all matters acted upon be sent down forthwith? It is a vote.

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