

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**

Index

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AUGUSTA, MAINE

SENATE

Monday, June 20, 1977

Senate called to Order by the President.
Prayer by the Honorable John D. Chapman of Woolwich.

Mr. CHAPMAN: O God, our creator and ruler, bless us this day as we address the work which lies before us. We thank Thee for work, and for the health to do it, Help us to think clearly and act wisely for the common good, spare us from impatience, quick temper, from focusing on faults and from tongues turned to criticism. Keep us steadfast in the things that matter, and deliver us from mistaking our will for Thy will. Grant us in all our labors, something of the grace, wisdom and beauty of the Master in whose name we pray. Amen.

Reading of the Journal of yesterday.

Papers from the House
Non-concurrent Matter

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)

In the House June 14, 1977 Passed to be Engrossed.

In the Senate Majority 'Ought Not to Pass' Report Read and Accepted in non-concurrence.

Comes from the House, that Body having Insisted and Asked for a Committee of Conference.

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

Mr. PRAY: Mr. President, I move that the Senate insist and join in a Committee of Conference.

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

Mrs. CUMMINGS: Mr. President, I move that the Senate adhere.

The PRESIDENT: The pending question before the Senate is the Motion of the Senator from Penobscot, Senator Pray, that the Senate insist and join in a Committee of Conference.

The Chair will order a Division.

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

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

8 Senators having voted in the affirmative, and 18 Senators in the negative, the Motion to insist and join in a Committee of Conference does not prevail.

The Senate voted to adhere.

Joint Order

An Expression of Legislative Sentiment recognizing that: Gene Coffen, General Manager of the Maine Truck Owners Association, has been awarded the Distinguished Service Award in the field of Americanism by the American Legion, Department of Maine (H. P. 1735)

Comes from the House, Read and Passed.

Which was Read and Passed, in concurrence.

WHEREAS, chapters 257 and 476 of the Public Laws of 1975 were enacted by the 107th Legislature to provide savings to consumers by requiring price posting, by authorizing pharmacists to advertise the prices of certain drugs and, under certain specified conditions, to substitute chemically equivalent drugs for drugs prescribed by physicians; and

WHEREAS, testimony has been received by legislative committees which suggests both shortcomings in and abuses of the present laws; and

WHEREAS, the alleged shortcomings and abuses cannot be evaluated without a full review of the effectiveness of the laws; and

WHEREAS, the Legislature has not assessed

the effects of the laws since their enactment; how, therefore, be it

ORDERED, the Senate concurring, that the Joint Standing Committee on Health and Institutional Services is directed to identify and evaluate the extent of benefits realized from and any shortcomings or abuses of the present laws; and, be it further

ORDERED, that the committee is directed to examine the need for additional legislation relating to a state policy of encouraging the sale of lower priced chemically equivalent drugs, including, but not limited to, the establishment of a state formulary; and, be it further

ORDERED, that the Board of Commissioners of the Profession of Pharmacy, the Committee on Aging and the Department of Human Services are directed to cooperate and assist the committee in its carrying out of the study; and, be it further

ORDERED, that the committee shall complete this study no later than December 1, 1977, and submit to the Legislative Council by the same date its findings and recommendations, including copies of any recommended legislation in final draft form; and, be it further

ORDERED, upon passage in concurrence, that a suitable copy of this Order shall be forwarded to members of the committee. (H. P. 1732)

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

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

Mr. LOVELL: Mr. President, I would like to speak against this Joint Order if I might.

The PRESIDENT: The Senator has the Floor.

Mr. LOVELL: Mr. President, and move indefinite postponement. Ladies and Gentlemen of the Senate, I do not think this Order is necessary at all. There is no need of the State spending several thousand dollars to study the drug industry or the drug business in the State of Maine.

We passed three Bills in the last session, and those three Bills, in fact, one the Governor vetoed, and we passed it over his veto. The cost of drugs in the last ten years has gone up 15 percent. Now you cannot name any other commodity that has not gone up more than 15 percent. The actual price rise in drugs is nothing compared to the other health facilities. The price rise in drugs over the over-all cost of medication has been seven percent. The rest of it is doctors and hospitals. Maybe they are the ones they should have a study of, the doctors and the hospitals.

But this law that we passed has only been in effect for a little over a year. They did not have the money to hire an inspector. They have an inspector now to go around and check to see if the drugs are posted in the various stores throughout the State of Maine as the law requested, and to see if records are kept on the patients, what they are allergic to and what not. Now if a person, there are 214 drugstores in the State of Maine, and actually there are many small drug stores that have one druggist or no druggist at all, and they do not have the money to carry the generic drugs. Now in my pharmacy my stock was \$150,000.00. I carried all the drugs, all the generic drugs. But, how many drug stores in a small town can handle all the generic drugs. So, when the doctor writes for the generic drug way up in Oshkosh or someplace, the druggist does not have a generic drug, so he has got to give them regular drugs. So, consequently, he charges the price for the regular drug. Now, if a person wants a generic drug, I can give them several 800 numbers that they can call and get the price for nothing on what it is going to cost them for that drug, send their prescription into that chain drug store and then they can have that drug at cost plus 10 or 15 or 20 percent.

Therefore, I believe that we should not have a study at this time on generic drugs and the pricing of generic drugs, and I hope that you will go along with me and indefinitely postpone it as ordered.

On Motion of Mr. Speers of Kennebec,
Tabled pending the motion by Mr. Lovell of York to Indefinitely Postpone.

Communications

Committee on Natural Resources

June 17, 1977

Honorable Joseph Sewall
President of the Maine Senate
State House
Augusta, Maine 04333
Dear President Sewall:

It is with pleasure that I report to you that the Committee on Natural Resources has completed all business placed before it by the 108th Legislature.

Total Number of Bills	62
Unanimous Reports	50
Leave to Withdraw	17
Ought Not to Pass	1
Ought to Pass	9
Ought to Pass as Amended	15
Ought to Pass in New Draft	7
Referred to another Committee	1
Divided Reports	12
Total Number of Amendments	15
Total Number of New Drafts	7

Respectfully,

Signed:

HOWARD M. TROTZKY
Senate Chairman

Which was Read and Ordered Placed on File.

Committee on Fisheries and Wildlife

June 17, 1977

The Honorable Joseph Sewall
President
Maine State Senate
State House
Augusta, Maine 04333
Dear President Sewall:

It is with pleasure that I report to you that the Committee on Fisheries and Wildlife has completed all actions necessary on the business placed before it by the One Hundred and Eighth Legislature.

Bills received in Committee	76
Unanimous Reports	49
Leave to Withdraw	19
Ought to Pass	5
Ought to Pass in New Draft	3
Ought Not to Pass	12
Ought to Pass as Amended	10
Divided Reports	27
Total Amendments	25
Total New Drafts	4

Respectfully,

Signed:

ANDREW REDMOND
Senate Chairman

Which was Read and Ordered Placed on File.

Committee on Election Laws

Friday, June 17, 1977

The Honorable Joseph Sewall
President of the Senate
State House
Augusta, Maine 04333
Dear President Sewall:

It is with pleasure that I report to you that the Committee on Election Laws has completed all business placed before it by the 108th Legislature.

Total Number of Bills Presented	73
Unanimous Reports	54
Leave to Withdraw	18
Ought Not to Pass	18
Ought to Pass	4
Ought to Pass in New Draft	6
Ought to Pass as Amended	8
Divided Reports	19

Recommitted Bills 3
 Unanimous Reports 2
 Ought to Pass as Amended 2
 Divided Reports 1
 Total Number of Amendments 15
 Total Number of New Drafts 15

Respectfully,
 Signed:

BENNETT D. KATZ
 Senate Chairman

Which was Read and Ordered Placed on File.

Office of the Governor
 June 17, 1977

Honorable Joseph Sewall
 President of the Senate
 and

Honorable John L. Martin
 Speaker of the House
 Dear Joe and John:

This is to officially notify you of our nomination today of John F. Sullivan of South Harpswell to serve on the Maine Maritime Academy Board of Trustees.

In accordance with MRSA Title 39, Section 48 this nomination requires confirmation by the Joint Standing Committee on Education and by the Senate.

Thanking you in advance for your assistance in the confirmation of gubernatorial appointments.

Sincerely,
 Signed: JAMES B. LONGLEY
 Governor (S. P. 560)

Which was Read and Referred to the Committee on Education.
 Sent down for concurrence.

June 17, 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 Provide for Legislative Confirmation of Gubernatorial Nominations for Chairmen of the Maine Human Services Council and the Maine Committee on Aging" (H. P. 723) (L. D. 856)

Messrs. CURRAN of South Portland
 GOODWIN of South Berwick
 SILSBY of Ellsworth

Respectfully,
 Signed:

EDWIN H. PERT
 Clerk of the House

Which was Read and Ordered Placed on File.

June 17, 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 Make Possible Property Tax Valuation Assistance to Local Officials" (S. P. 464) (L. D. 1607)

Mr. CAREY of Waterville
 Mrs. POST of Owls Head
 Mr. TEAGUE of Fairfield

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 Amend the Membership and the Legislative Mandate of the Capitol Planning Commission" (H. P. 1128) (L. D. 1345)

Messrs. CURRAN of South Portland
 DIAMOND of Windham

Mrs. MASTERTON of Cape Elizabeth
 Respectfully,

Signed: EDWIN H. PERT
 Clerk of the House

Which was Read and Ordered Placed on File.

June 17, 1977

The Honorable May M. Ross
 Secretary of the Senate

108th Legislature
 Augusta, Maine

Dear Madam Secretary:

The House today voted to Insist and Join in a Committee of Conference on Bill "An Act to Make Possible Property Tax Valuation Assistance to Local Officials" (S. P. 464) (L. D. 1607)

Respectfully,
 Signed: EDWIN H. PERT
 Clerk of the House

Which was Read and Ordered Placed on File.

June 17, 1977

Honorable Joseph Sewall
 President of the Senate

Honorable John L. Martin
 Speaker of the House

Dear Joe & John:

This is to officially notify you of our nomination today of Ellen W. Platz of Auburn to the University of Maine, Board of Trustees.

In accordance with Title 20 Section 2251 this nomination requires confirmation by the Joint Standing Committee on Education and by the Senate.

Thanking you in advance for your assistance in the area of appointments.

Signed: JAMES B. LONGLEY
 Governor (S. P. 561)

Which was Read and Referred to the Committee on Education.
 Sent down for concurrence.

Orders

On Motion by Mr. Huber of Cumberland, ORDERED, the House concurring, that the following be recalled from the Governor's Office to the Senate: Bill, "An Act Establishing the Maine Small Business Loan Authority." (H. P. 1004, L. D. 1244) (S. P. 562)

Which was Read and Passed.
 Sent down for concurrence.

Committee Reports
House

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

Bill, "An Act Concerning Liability of Pharmacists for Dispensing Prescriptions Originating from a Physician's Assistant or Nurse Practitioner." (H. P. 413) (L. D. 516)

Ought to Pass

The Committee on Health and Institutional Services on, Bill, "An Act to Redefine the Designation of Beneficiaries of Priority Social Services." (H. P. 570) (L. D. 694)

Reported that the same Ought to Pass.
 Comes from the House the Bill Passed to be Engrossed.

The Committee on State Government on, Resolve, to Authorize the Maine Guarantee Authority to Issue a Payment in Lieu of Taxes to the Town of Pittsfield. (H. P. 1476) (L. D. 1709)

Reported that the same Ought to Pass.
 Comes from the House, the Resolve Passed to be Engrossed.

The Committee on State Government on, Bill, "An Act Relating to Training, Counseling and

Managerial Service Programs in State Government." (H. P. 1547) (L. D. 1772)

Reported that the same Ought to Pass.
 Comes from the House, the Bill Passed to be Engrossed.

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

The Committee on Health and Institutional Services on, Bill, "An Act to Clarify Certain Statutory Provisions for the Licensing of Camps, Eating and Lodging Places." (H. P. 1260) (L. D. 1489)

Reported that the same Ought to Pass.
 Comes from the House, the Bill Passed to be Engrossed as amended by House Amendment "A" (H-695).

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

On Motion of Mr. Pray of Penobscot, House Amendment "A" indefinitely postponed in non-concurrence, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Judiciary on, Bill, "An Act Relating to Irreconcilable Marital Differences as Grounds for Divorce and Mental Illness as an Impediment to Divorce." (H. P. 1367) (L. D. 1596)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-658).

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

Which Report was Read.
 The PRESIDENT: The Chair recognizes the Senator from York, Senator Farley.

Mr. FARLEY: Mr. President, I would ask for the indefinite postponement of this Bill and all its accompanying papers.

The PRESIDENT: The Senator from York, Senator Farley, now moves that L. D. 1596 be indefinitely postponed.

On Motion of Mr. Huber of Cumberland, Tabled for One Legislative Day, Pending the Motion by the Senator from York, Senator Farley, to indefinitely postpone.

The Committee on Labor on, Bill, "An Act to Redefine "Wages" to Include Fringe Benefits." (H. P. 435) (L. D. 542)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-643).

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 to Terminate Administration of the Industrialized Housing Law." (H. P. 654) (L. D. 797)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-662).

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

The Committee on Business Legislation on, Bill, "An Act Concerning Review of Corporate Certificates and Other Documents." (H. P. 679) (L. D. 941)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-625).

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" and House Amendment "A" (H-668).

Which Report was Read.

On Motion of Mr. Pierce of Kennebec,
Tabled until later in Today's Session.
Pending acceptance of the Report.

Divided Report

The Majority of the Committee on Agriculture on, Bill, "An Act Concerning Standards for the Measurement of Wood and Providing for a Standard Contract for Use Between Paper Companies and Wood Suppliers." (H. P. 1337) (L. D. 1650)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-624).

Signed:

Senators:

JACKSON of Cumberland
LEVINE of Kennebec

Representatives:

WOOD of Sanford
STROUT of Corinth
CARROLL of Limerick
HALL of Sangerville
TORREY of Poland
TOZIER of Unity
MAHANY of Easton
LOUGEE of Island Falls

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

Signed:

Senator:

HICHENS of York

Representatives:

ROLLINS of Dixfield
SMITH of Mars Hill

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

Which Reports were Read.

On Motion of Mr. Conley of Cumberland, Majority Ought to Pass as Amended 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 Education on, Bill, "An Act to Clarify the Authority of the Board of Registration in Medicine to Conduct Programs of Medical Education." (H. P. 1349) (L. D. 1621)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-618).

Signed:

Senators:

KATZ of Kennebec
PIERCE of Kennebec
USHER of Cumberland

Representatives:

FENLASON of Danforth
LYNCH of Livermore Falls
PLOURDE of Fort Kent
BAGLEY of Winthrop
BIRT of East Millinocket
LEWIS of Auburn

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-619).

Signed:

Representatives:

BEAULIEU of Portland
MITCHELL of Vassalboro
CONNOLLY of Portland
WYMAN of Pittsfield

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

Which Reports were Read.

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

Mr. CONLEY: Mr. President, I Move that the

Senate accept the Minority Report as amended by Committee Amendment "B"

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves the Senate accept the Minority Ought to Pass as amended by Committee Amendment "B" Report.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I oppose the Motion and request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: One of the difficult things that we incur during the closing weeks of the session is the rapidity of bills coming before both Houses, and sometimes legislation is run through with Unanimous Reports, or we have a Bill such as the one presently before us that has two Ought to Pass Reports, and we just summarily dismiss by a Division.

I wonder if the good Senator from Kennebec, Senator Katz, may possibly define exactly what the difference is between the two bills.

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

Mr. KATZ: Mr. President, I want to apologize for being guilty of summarily asking for a Division, but the precedent had been set by summarily asking for acceptance of the Minority Report.

The Majority Report retains present law with respect to the Board of Registration, and it says that the Board of Registration does contract with the State Department of Education for the education of Maine youngsters in medical school, yet it must do so in compliance with other state laws. It is a very clear cut addition to the existing law.

The Minority Report goes pretty far afield, and it reflects some of the special agenda of the sponsors. It specifically says that a significant portion of the money, let me explain very quickly, the Board of Registration of Medicine gets its money by conducting examinations for physicians who want to be licensed in the State of Maine, and increasingly they are people who are of foreign extraction who come to Maine for some reason or other. Maine is extremely popular to foreign physicians to come to get licensed, and we take in a considerable amount of money from this licensing power. The proponents of the Minority Report are particularly interested in what they refer to as developmental disabilities, and in this bill they specify that no less than \$10,000.00 must be disbursed for developmental disabilities.

Well, the majority of the Committee felt that it was wrong for the Legislature to intrude into the specifics of distribution of these funds for a particular disease, that I myself would be more inclined to say that I would like for them to spend more money in cancer work or in the identification of ways to help those who have alcoholic problems, or a whole host of things. The biases of the sponsors, and I do not say that in a negative manner, the biases of the sponsors come through more for developmental disabilities, and the majority of the Committee thought it was wrong.

They also get into some question as to whether or not funds might be spent for meals, lodging and so forth. Well if you are dealing in medical education, it may very well be that part of it is to encourage the physician to get from point A to point B, and to inhibit the freedom of this traffic was, we felt, negative to the purposes of the legislation presently on the books.

I call to your attention the fact that the Committee Report was rather heavily in favor of the Majority position.

The PRESIDENT: The Chair recognizes the

Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: I would also call the attention to this Body that the fact of the signing of the report that it had such a vast majority in the other branch and it seems to be before us in the minority this morning.

It is my understanding that under the law that was passed, I believe in the last session of the Legislature, that contracts were to be made out with the Board of Medicine for any surpluses that were left over from the collection of fees through the result of these examinations that are given. The contracts were to be made that were to assist Maine youngsters to go to schools, such as the University of Vermont, Tufts University, and such, and that upon completion of the programs that they would return to Maine and practice medicine.

It is my understanding that the Board, since the enactment of that law, the Board of Medicine completely ignored that law, completely did away with signing any contracts with the students going to these colleges binding them to come back to Maine to practice medicine. It is my understanding that that is what has brought about Committee Amendment "B", which directs itself to the financial assistance, to again emphasize the importance of bringing Maine students back into Maine, or whether there are other students who wish to become involved in the programs that are offered at the University of Vermont or Tufts, but the thing is it is my understanding that the question has even been brought before the Attorney General's Office because of the totally ignoring the present law that we have.

This is one of the reasons why I would hope that the Senate would move to accept the Minority Ought to Pass Report and Committee Amendment "B".

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

Mr. KATZ: Mr. President, it is the Majority Report which addresses the question of compliance with the necessity of returning to the State of Maine to practice. It is the Majority Report, and that is the position that I support.

The Minority Report goes pretty far afield, and it completely repeals present law. Now the majority felt that the present law was good but it was essential that the Board of Registration of Medicine live up to the procedures outlined by it so we more or less clarified it so they have to. The Minority Report completely rewrites the law, and includes a lot of factors, such as I mentioned before, that were clearly were not acceptable to the three members of the Senate and others who signed the Report.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is the motion by the Senator from Cumberland, Senator Conley, that the Senate accept the Minority Ought to Pass as amended by Committee Amendment "B" Report.

A Division has been requested.

Will all those Senators in favor of the motion to accept the Minority Ought to Pass as amended by Committee Amendment "B" Report, please rise in their places to be counted.

Will all those Senators opposed to the motion to accept the Minority Ought to Pass as amended by Committee Amendment "B" Report, please rise in their places to be counted.

6 Senators having voted in the affirmative, and 21 Senators in the negative, the Motion to accept the Minority Ought to Pass Report does not prevail.

Majority Ought to Pass as amended by Committee Amendment "A" Report accepted.

The Bill Read Once. Committee Amendment "A" Read and Adopted, and the Bill, as

amended, Tomorrow Assigned for Second Reading.

(Off Record Remarks)

Divided Report

The Majority of the Committee on Energy on, Bill, "An Act to Provide Tax Incentives for Energy Efficient Automobiles." (H. P. 908) (L. D. 1107)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-655).

Signed:

Representatives:

HUBER of Falmouth
JENSEN of Portland
TORREY of Poland
CONNOLLY of Portland
DAVIES of Orono
HOWE of South Portland
TRAFTON of Auburn

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

Signed:

Senators:

TROTZKY of Penobscot
FARLEY of York
REDMOND of Somerset

Representatives:

BOUDREAU of Waterville
BROWN of Bethel
RIDEOUT of Mapleton

Comes from the House, Bill and Papers Indefinitely Postponed.

Which Reports were Read.

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

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

The PRESIDENT: The Senator from Penobscot, Senator Troitzky, now moves the Senate accept the Minority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President I would just like to inquire through the Chair from the Chairman of the Energy Committee as to why he moved that Report.

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

The Chair recognizes the Senator from Penobscot, Senator Troitzky.

Mr. TROTZKY: Mr. President and Members of the Senate: There is no question that an energy crisis is facing this nation, and will face it in the future. However, Maine has only one million people in a nation which I believe has over 200 million people, and it is the feeling of this Senator that this bill will put unfair tax burdens on the people of this state, and it is the feeling that the approach to this problem should be a Federal approach or a national program. This state, I believe, has as many people who are least able to afford further taxes on cars and I would also state that it will also hurt middle income groups and people who have families, so I do feel that it should be handled in a national way.

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

Mr. MERRILL: Mr. President and Members of the Senate: I would like to thank the Chairman of the Energy Committee for that explanation. I wonder if he might just elucidate a little further on it.

As I understand this bill, there would be no net tax, merely a device of adding an extra burden on those who buy cars that consume way above average, and lightening the burden somewhat on those who have enough of a sense

of the problems of energy that we face so that they purchase cars that consume less energy, and I wonder if that is not so, and if it is so, does not it really erode his argument as to the tax burden.

Secondly, I wonder if he would be kind enough to distinguish for us in the Senate how these arguments as far as this should be a national approach concern should be distinguished from the Bottle Bill, of which he was a strong supporter, and which had similar arguments that ran all the way through, Maine having only a million consumers, extra cost to those consumers, etc., etc. Knowing he was a strong supporter of that Bill, I wonder if he might distinguish the cases for us.

(Off Record Remarks)

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

Mr. TROTZKY: Mr. President and Members of the Senate: In trying to answer the Senator from Cumberland, Senator Merrill's question, first of all, I did strongly support the returnable beverage container bill because I believe that it will reduce costs to the consumer, and also because Maine is a recreational and tourist State and seeing beverage containers along the roadside is not a benefit to the economy of this state.

Now back to the tax on automobiles. According to this Committee Amendment, supposedly the taxes on the gas guzzlers will pay for rebates on those cars that get a large number of miles per gallon. One of the problems with this Bill, of course, is that it includes foreign cars, and it is my opinion that with the greater miles per gallon that the foreign cars are getting it is going to be incentive to buy foreign cars.

Again I feel the same way I felt on the minimum wage bill, that this should be handled Federally so that people in all the surrounding states, if there is a tax on large cars, that they also pay the tax. I will also say that many Maine people do drive large cars because of the businesses that they are in.

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

Mr. MERRILL: Mr. President, I have listened with interest to the arguments of the Chairman of the Energy Committee, and I have followed with interest the arguments that are going on nationally now as the Democratic Congress is thwarting the attempts of a Democratic President to institute such a program at the National level, and, frankly, listening to the previous speaker and listening to some members of the Democratic Congress, I remain unconvinced, and as a point of fact never have I heard a public debate in which it seemed to me the merits were so much on one side and had so few merits on the other.

It seems to me that it is a fairly easy thing to accept that we are going to have to do something to improve the efficiency of the automobiles that travel on our roads, which are the worst in the world. And, there are really only two approaches to take. One is to provide added economic incentives for people to follow that course, and the other is to set up absolute limitations and standards, and force the auto makers to meet them, and when the former have worked, when economic incentives can work and not make too much of a burden on any particular part of the economy that cannot stand it, I have always favored the former for it leaves greater freedom of choice.

People who buy cars that consume a great deal of gasoline are putting an added burden on future generations, and I do not think that it is inappropriate for the society to try to stimulate them to make other decisions, and as to the argument that it will bring people to buy foreign cars, it seems to me that there is an acceptance in that theory that Detroit and the genius of America, which is the country that brought the

purchase of cars into the realm where everyone could afford them, is incapable of making cars that are fuel efficient and that satisfy the needs of people who want fuel efficient cars, as well as other countries. I do not accept that.

Frankly, I am a bit disturbed by our auto industry in this country, that they have let this come about where one could say, and I think in the short term accurately, that measures such as this might stimulate the purchase of foreign cars, but if it stimulates our own auto industry to move one day faster to making cars that are as efficient as other countries do, then I think that it is a good idea. I do not harbor any great notion that it is going to be anymore successful in this Legislature than it is going to be in our national one, but I do think it is an important thing to draw our attention to, and I would like for there to be a Division, at least, so that those few of us who would like to try to grapple with this problem might at least have a chance to stand up in opposition to a point of view, I think, that surrenders all too much to the present and takes into consideration all too little of our future needs.

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

Mr. TROTZKY: Mr. President and Members of the Senate: I would like to express my concern for the confusion in the Democratic Party in Washington and suggest that the Senator from Cumberland contact his Senators in Washington.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Troitzky, that the Senate accept the Minority Ought Not to Pass Report of the Committee.

A Division has been requested.

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 places to be counted.

19 Senators having voted in the affirmative, and 11 Senators in the negative, the Motion to accept the Minority Ought Not to Pass Report does prevail.

Divided Report

The Majority of the Committee on Natural Resources on, Resolve, to Provide for the Development of Recommendations on Coastal Policy Issues. (Emergency) (H. P. 1384) (L. D. 1664)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-626).

Signed:

Representatives:

BLODGETT of Waldoboro
GREEN of Auburn
HALL of Sangerville
HUBER of Falmouth
DEXTER of Kingfield
BENOIT of South Portland
WILFONG of Stow

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

Signed:

Senators:

TROTZKY of Penobscot
O'LEARY of Oxford
REDMOND of Somerset

Representatives:

HUNTER of Benton
BROWN of Bethel

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

Which Reports were Read.

On motion of Mr. O'Leary of Oxford,

Minority Ought Not to Pass Report Accepted, in non-concurrence.
Sent down for concurrence.

Divided Report

The Majority of the Committee on State Government on, Bill, "An Act to Amend the Powers and Duties of the Maine Committee on Aging." (H. P. 229) (L. D. 292)

Divided Report

The Majority of the Committee on State Government on, Bill, "An Act to Amend the Powers and Duties of the Maine Committee on Aging." (H. P. 229) (L. D. 292)

Reported that the same Ought to Pass.

Signed:

Senator:

MARTIN of Aroostook

Representatives:

VALENTINE of York

DIAMOND of Windham

CHURCHILL of Orland

MASTERTON of Cape Elizabeth

BACHRACH of Brunswick

LOCKE of Sebec

KANY of Waterville

CURRAN of South Portland

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

SNOWE of Androscoggin

Representative:

SILSBY of Ellsworth

Comes from the House, the Bill Passed to be Engrossed as amended by House Amendment "A" (H-701).

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 Taxation on, Bill, "An Act to Provide for a Sales Tax Rebate for Machinery and Equipment used in Commercial Fishing." (H. P. 1405) (L. D. 1614)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-649).

Signed:

Senators:

WYMAN of Washington

JACKSON of Cumberland

Representatives:

MAXWELL of Jay

MACKEL of Wells

POST of Owls Head

CHONKO of Topsham

CAREY of Waterville

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

Signed:

Senator:

MARTIN of Aroostook

Representatives:

CARTER of Bangor

IMMONEN of West Paris

COX of Brewer

TWITCHELL of Norway

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

Which Reports were Read.

On Motion of Mr. Wyman of Washington,

Majority Ought to Pass as Amended 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 Taxation on, Bill, "An Act to Eliminate Dissimilar and Inequitable Taxation of Mobile Homes Owned by Maine Home-Owners." (H. P. 1401) (L. D. 1656)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-650).

Signed:

Senators:

WYMAN of Washington

JACKSON of Cumberland

Representatives:

MAXWELL of Jay

CHONKO of Topsham

IMMONEN of West Paris

CAREY of Waterville

COX of Brewer

MACKEL of Wells

TWITCHELL of Norway

POST of Owls Head

TEAGUE of Fairfield

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

Signed:

Senator:

MARTIN of Aroostook

Representative:

CARTER of Bangor

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

Which Reports were Read.

Majority Ought to Pass as amended Report Accepted, in concurrence.

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

Senate

Leave to Withdraw

Mr. Collins for the Committee on State Government on, Bill, "An Act to Improve Recruiting and Retention of Technical and Professional Classified Service Employees." (H. P. 349) (L. D. 1177)

Reported that the same be granted Leave to Withdraw.

Mr. Collins for the Committee on State Government, on, Bill, "An Act Relating to the Powers of the Maine Seed Potato Board." (Emergency) (S. P. 498) (L. D. 1782)

Reported that the same be granted Leave to Withdraw.

Mr. Collins for the Committee on State Government on, Bill, "An Act to Reorganize Certain Boards and Commissions and to Affiliate Certain Boards and Commissions with Departments of Maine State Government." (S. P. 501) (L. D. 1787)

Reported that the same be granted Leave to Withdraw.

Mr. McNally for the Committee on Transportation on, Bill, "An Act to Provide for the Use of Commuter Passes on the Maine Turnpike." (S. P. 372) (L. D. 1222)

Reported that the same be granted Leave to Withdraw.

(See Action Later Today)

Mr. Greeley for the Committee on Transportation on, Bill, "An Act Relating to Relocating the Maine Turnpike Authority Toll Booth from Augusta to Gardiner." (S. P. 418) (L. D. 1459)

Reported that the same be granted Leave to Withdraw.

(See Action Later Today)

Which Reports were Read and Accepted.

Sent down for concurrence.

Ought to Pass

Mr. Greeley for the Committee on Transportation on, Bill, "An Act Concerning the Expira-

tion of Motor Vehicle Inspection Stickers." (S. P. 329) (L. D. 1088)

Reported that the same Ought to Pass.

Which Report was Read and Accepted and the Bill Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

Mr. Pray for the Committee on Fisheries and Wildlife on, Bill, "An Act to Repeal Certain Laws Relating to Conservation." (S. P. 363) (L. D. 1224)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-276).

Mr. Lovell for the Committee on Human Resources, on, Bill, "An Act to Amend the Child Abuse and Neglect Laws." (S. P. 337) (L. D. 1122)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-283).

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 Be Adopted — As Amended

Mr. Collins for the Committee on State Government on, Joint Resolution, accepting the Capitol Planning Commission Report and indicating a willingness to utilize the Capitol Complex Plan and Public Improvement proposals as a guide for all future legislation pertaining to the Capitol Complex.

Reported that the same Ought to be Adopted as amended, by Committee Amendment "A" (S-284).

Which Report was Read and Accepted. Committee Amendment "A" was Read and Adopted and the Resolution, as amended, adopted.

Sent down for concurrence.

Divided Report

The Majority of the Committee on Transportation on, Bill, "An Act to Clarify and Correct Laws Relating to Aeronautics." (S. P. 340) (L. D. 1154)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-278).

Signed:

Senators:

GREELEY of Waldo

McNALLY of Hancock

MINKOWSKY of Androscoggin

Representatives:

HUTCHINGS of Lincolnville

LUNT of Presque Isle

BROWN of Mexico

McKEAN of Limestone

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

Signed:

Representatives:

STROUT of Corinth

LITTLEFIELD of Harmon

JACQUES of Lewiston

JENSEN of Portland

ELIAS of Madison

Which Reports were Read.

Majority Ought to Pass as Amended Report Read and Accepted.

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 State Government on, Bill, "An Act Providing the Governor with the Authority to Reorganize a

Department or Agency of State Government." (S. P. 500) (L. D. 1786)

Reported that the same Ought Not to Pass.

Signed:

Senators:

COLLINS of Aroostook
MARTIN of Aroostook

Representatives:

CHURCHILL of Orland
KANY of Waterville
STUBBS of Hallowell
VALENTINE of York
LOCKE of Sebec
DIAMOND of Windham
BACHRACH of Brunswick
SILSBY of Ellsworth
MASTERTON of Cape Elizabeth

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-277).

Signed:

Senator:

SNOWE of Androscoggin

Representative:

CURRAN of South Portland

Which Reports were Read:

On Motion of Mr. Collins of Aroostook,

Majority Ought Not to Pass Report Accepted.

Sent down for concurrence.

Divided Report

The Majority of the Committee on State Government on, Bill, "An Act Relating to the Salaries of Certain Officers in the Executive Department." (Emergency) (S. P. 476) (L. D. 1725)

Reported that the same Ought Not to Pass.

Signed:

Senator:

SNOWE of Androscoggin

Representatives:

VALENTINE of York
MASTERTON of Cape Elizabeth
DIAMOND of Windham
CURRAN of South Portland
STUBBS of Hallowell
KANY of Waterville
CHURCHILL of Orland
LOCKE of Sebec
BACHRACH of Brunswick

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

Signed:

Senator:

COLLINS of Aroostook

Which Reports were Read.

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

Mrs. SNOWE: Mr. President, I move that the Senate Accept the Majority Ought Not to Pass Report.

The PRESIDENT: The Senator from Androscoggin, Senator Snowe, now moves the Senate Accept the Majority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, this Bill is one with which I am not familiar, but the topic is one that I think should give all of us some concern, at least if it addresses the question of what the relative salaries are of personnel who are in those categories which are specifically described in Title 2, Section 6, of the Maine Statutes providing what their salaries will be. These are all the Department heads and some Assistant Department heads.

It has come to my attention and I think to the attention of some other members of the Senate that there some amazing inequities now in State government in which Commissioners of Departments are paid substantially less than some of the classified employees who work for them. I

wonder if some member of the committee might address this question.

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

Mr. COLLINS: Mr. President, I think that it is obvious that the Committee felt as a group that the Bill Ought Not to Pass, and I am the lone Minority signer of the Ought to Pass Report.

The good Senator, Senator Curtis, is correct that there are some inequities involved at this layer of government. The Bill essentially provides for future increases to a number of Bureau Chiefs and Department heads, and I suspect that the chief reason for the negative report has to do with the future cost involved. The other side of the coin is that, of course, the state needs to increase salaries in order to attract high caliber people who are capable of running departments and bureaus, and, of course, they need to compete with the private sector, and the good Senator is very correct, it is something that we ought to consider and that is the reason that I have signed the Minority Ought to Pass Report, because if we are going to compete with private industry for high quality people, it is essential that their salaries be increased.

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

Mr. CARPENTER: Mr. President and Members of the Senate: I feel that I should perhaps speak very briefly on this bill, as it was my bill or is my bill I submitted for the Executive Department.

I would point out initially that this is not a salary increase for anybody. It merely lifts the ceiling or moves the ceiling in several particular cases. I do not have those particular cases right at hand, but if you will look at the bill I am sure you will be able to understand some of the ceilings are moved, and it will allow the Executive Department to pay more in future years to certain Department heads.

Now I would just emphasize that if there is any future pay increases to go to any particular Commissioner or Bureau Chief, then this money will have to go through the normal budgetary process, or this would be the process for funding these pay increases, and I am disappointed to see the Bill come out with a large majority of Ought Not to Pass. There were no opponents to this Bill at the public hearing. The Personnel Director and a gentleman from the State Planning Office came in and spoke in favor of the bill, and I think it is something we should keep in mind, as the good Senator from Penobscot and the good Senator from Aroostook have just pointed out, that it is necessary that we do keep salary levels as near in line as possible with other states or with the private sector. I know we can never compete with the private sector for middle management, but I think it is essential that we realize that if we do not have good middle management, and we have got to pay to get good middle management, then we are not going to have good efficient State Government. I look at a case that I find rather remarkable of a gentleman who was just confirmed recently as a member of the Public Utilities Commission, Mr. Gelder, who is now the Chairman of Public Utilities Commission, and it amazes me that we were able to attract this man back to the State of Maine for the salary that we pay him, knowing what he can get in the private sector, and I think if we are going to continue to be able to attract this type of middle manager to State Government, it is essential that we are willing to pay somewhat for it, and I would ask when the Report is accepted for a Division.

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

Mrs. SNOWE: Mr. President and Members of the Senate: As a member of the State Government Committee, I feel that I should explain my

position. I do recognize the arguments presented on the other side. However, I felt that this bill, since it sets a maximum level of salaries for many of the unclassified Bureau heads plus the Regulatory Commissions, and I feel down the road that this is going to have a potential fiscal note, and I feel that if an individual should require an increase in salary, that they can be included in the government's budget and come before the Legislature, but I do not feel at this point that we should give blanket authority to increase that maximum level for salaries.

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

Mr. MORRELL: Mr. President and Members of the Senate: I share the concern of the Senator from Penobscot, Senator Curtis relative to some inequities at the Commissioner level, particularly one of the Commissioners in our major department was paid in the order of close to \$5,000.00 less than his Deputy, both extremely good men. I would ask the question through the Chair to the Chairman of the State Government Committee, if this Bill is defeated, does the State Government Committee have in mind making some attempt to deal with this kind of a problem.

The PRESIDENT: The Senator from Cumberland, Senator Morrell has posed a question through the Chair.

The Chair recognizes the Senator from Aroostook, Senator Collins.

Mr. COLLINS: Mr. President and Members of the Senate: The Committee on State Government does indeed expect to address this problem if the Bill is defeated.

There are a great many changes that are outlined in the L. D., and I think that it will take some time to resolve the categories and the levels of pay that ought to be properly a part of the bill. If the bill is defeated, I am sure that the Committee on State Government will continue to address the problem in the next regular session.

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

Mr. CARPENTER: Mr. President, I just rise a second time to briefly disagree with my good friend, the Senator from Androscoggin, Senator Snowe. She says that the majority of the Committee that signed this Bill Ought Not to Pass felt that if the Governor wished to give a salary increase to a particular Commissioner, that he just go ahead and do so through his budget. Well, Title 2, Section 6, specifically says that thus and such Commissioners shall receive no more than. Let us take for example, if it is \$21,500.00, and if the Governor decides that this particular Commissioner is worth \$23,000.00, he cannot through his budget increase the particular Commissioner's salary, regardless of whether the overwhelming majority of us in this Legislature feel that that is correct or not. All this bill does is it adjusts the salary ceiling, the top salary that this individual can get. Now I would expect that most of the individuals in Title 2, Section 6, are getting the maximum salary, so that in fact down the road this may be a salary increase, but as I see the process, a salary increase would still have to be approved through the appropriations process.

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

Mr. MERRILL: Mr. President, I would like to respond to one concern and then raise another one. First of all, I think it is well within the power of the Governor to present a budget that pays his employees more than they are currently authorized by law, and the budget document that is passed by the Legislature can reflect that added salary and simply amend the law in the same process. Any close reading of the Part I and Part II budget will see many laws being amended as it goes along the process, so

that certainly is available and an alternative that the Governor can follow.

I have a problem with this bill, at least if the Statement of Fact is correct, and that is it says the purpose of this is to allow the Governor to award periodic merit pay increases in the same manner as other deserving agency officials. Then if I am reading the bill correctly, and I am ready to stand corrected, because it is a bill that just relates piece by piece into existing law, but if I am reading the bill correctly, it will allow such people as the Chairman of the Public Utilities Commission, Industrial Accident Commission, and the members of those commissions to be granted by the Governor merit pay increases. Frankly, that troubles me from the standpoint of these agencies having been created to be independent and separate from the Executive, and protected in essence from the Executive, so as to insulate them some from the political process. It seems to me to run counter to that to provide an avenue for the Governor to grant merit pay increases to those individuals who he thinks are deserving. That would seem to me to tamper somewhat, at least, with the concept of these agencies being independent of the Executive and his influence.

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

Mr. MANGAN: Mr. President and Members of the Senate: I am amazed that my favorite constituent is not lobbying against this bill this morning. I am impressed by the fact that the Legislature would consider allowing the Governor to set salaries at a level higher than present, when some of these salaries go anywhere from \$21,000.00 through \$35,000.00 a year. I look at the Sunday Telegram and I notice that there is a salary comparison in there, and I believe that there are several individuals who are earning well into the \$40,000.00 a year working for State Government.

There are other compensating factors to attract employees from outside the state to the State of Maine who are qualified, and if you talk to anyone outside the State of Maine you will know what these benefits are. For example, our fresh strawberries this morning, the air that you cannot see that you breathe, the coast lines, the beautiful State of Maine itself, a better standard of living, a generally more moral society. These are benefits that do accrue to anybody who does want to come to the State of Maine to work.

Further, I do not see why we should be concerning ourselves with raising salaries from \$25,000.00 to \$40,000.00 a year when some of our state employees are still starting off at \$100.00 a week, and I think there are some inequities here, and I have a strong problem with this bill, and I would urge that the members of the Senate accept the Majority Ought Not to Pass Report.

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

Mr. CURTIS: Mr. President, having initially raised the question, I am very appreciative of the comments that have been made in this debate, and would urge my colleagues not to kill this bill at this time. It seems to me it certainly requires some changes, but that the appropriate stance for the Senate at this time would be to keep the bill alive, since apparently there is no other document that would be available in this session to solve some very serious inequities that presently exist.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Snowe, that the Senate accept the Majority Ought Not to Pass Report of the Committee.

A Division has been requested.

Will all those Senators in favor of the Motion to Accept the Majority Ought Not to Pass

Report, please rise in their places to be counted.

Will all those Senators opposed to the Motion to Accept the Majority Ought Not to Pass Report, please rise in their places to be counted.

15 Senators having voted in the affirmative and 12 Senators in the negative, the Motion to Accept the Majority Ought Not to Pass Report does prevail.

Sent down for concurrence.

Divided Report

The Majority of the Committee on Health and Institutional Services on, Bill, "An Act to Provide for the Prevention of Alcohol Abuse." (S. P. 306) (L. D. 976)

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

Signed:

Senators:

SNOWE of Androscoggin

PRAY of Penobscot

GREELEY of Waldo

Representatives:

PRESCOTT of Hampden

NELSON of Portland

GILL of South Portland

KERRY of Old Orchard Beach

BRENERMAN of Portland

GOODWIN of South Berwick

FOWLIE of Rockland

TYNDALE of Kennebunkport

TRAFTON of Auburn

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

Signed:

Representative:

KANE of Augusta

Which Reports were Read.

Majority Ought to Pass as Amended Report Accepted.

The Bill Read Once. Committee Amendment "A" Read and Adopted.

The Bill, as amended, Tomorrow Assigned for Second Reading.

Reconsidered Matter

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

Mr. CONLEY: Mr. President, I would like to call the Senate's attention to today's calendar L. D. 1222 and L. D. 1459.

Mr. President and Members of the Senate: The Senate this morning accepted the Leave to Withdraw Report of the Committee on Transportation regarding these two subject matters. I, coming from the southern end of the State, am fully concerned of what is transacted dealing with the Maine Turnpike, and concerned as to the Legislation that is presently before the Committee on Transportation.

With reference to Item 6-21 and accepting the Leave to Withdraw Report of the Committee, I would like to know exactly what the thinking is on the Committee on Transportation dealing with other aspects dealing with this subject matter. In other words, the Committee apparently already reported out the Bills dealing with the Turnpike, and I wonder if the Chairman of the Transportation Committee could inform the Senate as to what the stand is that they have taken.

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question through the Chair.

The Chair recognizes the Senator from Waldo, Senator Greeley, who requests unanimous consent to address the Senate on the record. Is there objection? The Chair hears none. The Senator may proceed.

Mr. GREELEY: Mr. President and Members of the Senate: The way I understand it, the way the Bill reads now, it is un-Constitutional to

take money out of the Highway Fund for Commuter Passes on the Turnpike. The word came to me that we wanted the bill Leave to Withdraw, and that is what we did.

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

Mr. CONLEY: Mr. President, first of all, so that I will not have to speak under unanimous consent, I move that the Senate reconsider its action whereby it accepted the Leave to Withdraw Report of the Committee on Transportation dealing with L. D. 1459 and I would speak to that motion.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate reconsider its action whereby it accepted the Leave to Withdraw Report of the Committee. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, once again I am sorry if there was some confusion dealing with L. D. 1222. I am addressing myself to L. D. 1459. Now I understand perfectly as far as the bonds dealing with the Turnpike itself and the fact that those bonds will not be retired until 1981, if that is my understanding under the present statute or under the way that the bonds were put out, that they will be retired in 1981, and the tolls will only be continued on the Turnpike if the Legislature itself takes that positive action. But I would like to know this morning, it is my understanding that there are bills before the Transportation Committee, and I would like to know if they have taken any positive stand dealing with that subject matter.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: To the best of my knowledge as a member of the Transportation Committee, the Transportation Committee did address that particular problem in the vote to Leave to Withdraw Items, and they are in the form of Amendments. I think there was eight separate Amendments added on to the Maine Turnpike Authority Bill for its continuation beyond the year 1981, which also deals with reduced tolls to take care of the problem in York County, and to take care of the problem addressed in L. D. 1459, which was a concern of Senator Speers of Kennebec that there would be reduced tolls, and the committee did not feel it necessary to continue to put these bills out and have them defeated anyway, since those two items were addressed in the major bill which will come before the Maine Senate very shortly.

Mr. President, going back to L. D. 1222, which seems to be a great concern to Senator Conley, "An Act to Provide for Users of the Commuter Passes on the Maine Turnpike," the Chairman of the Transportation Committee was absolutely correct. We cannot take from the General Fund or from the Highway Appropriation Fund to reimburse the Maine Turnpike Authority for a reduced cost for the commuters who use the Turnpike in the County of York. The only answer to the problem would be to accept the Report, which will be coming forth very shortly, regarding the continuation of the Maine Turnpike beyond the year 1981, which address the possibility of reduced tolls which will be a great benefit to the people of Biddeford and surrounding areas, and in particular York County, who face a problem of heavy congestion during peak hours of traffic. I am quite sure when this bill is before us that this will alleviate the problems that the good Senator from Cumberland, Senator Conley, has reference to these two different matters.

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

Mr. CONLEY: Mr. President and Members of the Senate: There is a question in my mind as to what is Constitutional and what is not Constitutional. It seems that the Legislators are reimbursed from the General Fund for using the Maine Turnpike. It would seem to me that if the Legislature can reimburse itself, then it ought to also be able to reimburse the citizens it serves. It sort of throws us back into the hat ring with that little stretch of highway nobody wants to particularly look at today, but they looked upon it as being the completion of 95 between Topsham and Augusta or Gardiner, when actually it was a completion between Fort Kent and Kittery or between Houlton and Kittery.

Mr. President, I ask leave to withdraw my motion to reconsider L. D. 1459.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now requests leave of the Senate to withdraw his motion to reconsider on L. D. 1459. Is it the pleasure of the Senate to grant this leave? It is a vote.

Second Readers

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

House

Bill, "An Act to Prohibit Otter Trawling for Scallops in the Penobscot River." (H. P. 1147) (L. D. 1381)

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

House — As Amended

Bill, "An Act Relating to Municipal General Assistance Programs." (H. P. 1673) (L. D. 1868)

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

Bill, "An Act to Establish a Bill of Rights for Mentally Retarded Persons." (H. P. 1473) (L. D. 1735)

Which was Read a Second Time.

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

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

The PRESIDENT: The Senator from York, Senator Hichens, 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 Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President, I now offer Senate Amendment "A" to Committee Amendment "A" (S-275) and move its adoption.

The PRESIDENT: The Senator from York, Senator Hichens, 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 Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I wonder if the good Senator may explain what the Amendment is?

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

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I withdraw my inquiry.

The PRESIDENT: The Senator from Cumberland, Senator Conley, withdraws his inquiry.

Senate Amendment "A" Adopted. Committee Amendment "A" as amended Adopted. The Bill, as amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

(Off Record Remarks)

Senate — As Amended

Bill, "An Act to Provide a Mandatory Rehabilitation Program for Minors who Violate the Motor Vehicle Laws while under the Influence of Intoxicating Liquor." (S. P. 3) (L. D. 6)

Bill, "An Act to Implement the Recommendations of the Pomeroy Commission on Medical and Hospital Malpractice Insurance." (S. P. 205) (L. D. 727)

(See Action Later Today)

Bill, "An Act to Protect the State Retirement System from the Cost of Abnormal Disability Claims." (S. P. 428) (L. D. 1486)

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

Sent down for concurrence.

Enactor

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

"An Act to Amend the Maine Income Tax Law." (H. P. 1514) (L. D. 1749)

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

Orders of the Day

The President laid before the Senate:

Bill, "An Act to Revise the Maine Tort Claims Act." (Emergency) (H. P. 1689) (L. D. 1874)

Tabled — June 15, 1977 by Senator Collins of Knox

Pending — Adoption of Senate Amendment "A" (S-252) pursuant to Joint Rule 4

On Motion of Mr. Collins of Knox,

Retabled until later in Today's Session.

The President laid before the Senate:

Senate Reports — from the Committee on Business Legislation — Bill, "An Act Requiring Average Net Cost Comparison of Life Insurance Companies." (S. P. 125) (L. D. 304) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass.

Tabled — June 16, 1977 by Senator Speers of Kennebec

Pending — Acceptance of Either Report. On Motion of Mr. Pierce of Kennebec, Retabled until later in Today's Session.

The President laid before the Senate:

House Reports — from the Committee on State Government — Resolve, to Authorize the Conveyance of the National Guard Armory in Auburn to the City of Auburn. (Emergency) (H. P. 1249) (L. D. 1471) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass as Amended by Committee Amendment "A" (H-598)

Tabled — June 16, 1977 by Senator Speers of Kennebec

Pending — Acceptance of Either Report. On Motion of Mr. Speers of Kennebec, Retabled Two Legislative Days.

The President laid before the Senate:

House Reports — from the Committee on Education — Bill, "An Act Relating to Approving and Financing School Construction." (Emergency) (H. P. 477) (L. D. 583) Majority Report — Ought to Pass as Amended by Committee Amendment "A" (H-559); Minority Report — Ought to Pass as Amended by Committee Amendment "B" (H-560)

Tabled — June 17, 1977 by Senator Conley of Cumberland

Pending — Acceptance of Either Report. The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I particularly call this Bill to the attention of the Senate, because

it is major Legislation, and because there is a very significant price tag.

The last Session of the Legislature declared a moratorium on school construction. This Bill raises the moratorium, and the difference between the two positions is rather slight, and I will explain it as I go along.

The entire Bill now can be found in the Committee Amendment "A" (H-559), and the only other thing that I would ask the Senate to look at is the House Amendment (H-677) and say that the House Amendment is a major statement of energy conservation, and it replaces a first section of the Committee Amendment, so essentially what you have to refer to is a major statement on energy, plus the Amendment filed by the Committee (H-559).

I would like to tell you briefly what it does. It says that the State Board of Education is authorized to approve school construction projects as long as no approval will cause debt service costs to exceed \$30 million in any one year. I believe for this biennium this provision would permit the authorization for approximately \$40 to \$45 million worth of school construction. Prior to the freeze on construction, the Legislature had authorized \$25 million of construction a year, so this is a further depressant on the level of construction. But rather than approach it by saying how many schools we may build, or what is the value of the schools we shall build, it approaches it from the viewpoint of the fiscal constraint and says authorize whatever schools that are absolutely essential, but in no case may you obligate this Legislature or any further Legislature to debt service of more than \$30 million a year.

On the second page of the Amendment, there will be in the warrant of any community wishing to build a school a very clear statement whereby the community will acknowledge the fact that they are approving the project with a full knowledge and realization that the extra first year operating costs of the building must be borne by the community. Last Session of the Legislature, although we had expressed this as our intent, there were four Bills that came out before us asking relief for first year operating costs, and that was not the intent of the Legislature and the Committee on Education has caused a warrant to be put in.

I was at a town meeting this year where a superintendent of schools got up and in reporting, it was a letter come to think of it, and in reporting on the progress of the school project, he said it would have no implications for the school budget and, of course, this was misleading to the people who should have been told that the first year operating cost was going to be paid for with pure local dollars.

On page five of the Amendment there is a very strong statement that deals with the question of the Bureau of Public Improvements involvement in school construction, and it is an important involvement, and this says "in the event that the Bureau of Public Improvements does not have adequate professional engineering personnel on a full-time basis at the time school construction projects come before it, the Bureau is authorized to contract for these services." One of the little known facts is that the engineer who previously had responsibility for school construction retired about a year ago, and for the past year DPI has not been able to attract a competent engineer for the pay scale which we have set for that position.

On page six of the Amendment, and I am taking your time this morning and I hope that you will do some homework on this, — on page six of the Amendment the majority point of view says that the local share of school construction shall either be five percent of the total cost or the equivalent of one mill, whichever is the lower. This gets some additional local sacrifice into the project. The bonds, and there will be bonds, will be sold by the local community, and at debt

service time the State will make up that portion of the bonds which are the State's responsibility. That covers the major implications of this Bill.

The other point of view, which is the Minority point of view, simply requires that 10 percent local dollars be put into the project. The majority thought that five percent with the first year operating cost to be borne by local dollars was enough of an incentive to exercise restraint in proposing school construction.

I think that it is a good Bill. It has been out of Committee for three weeks, and that is how long it took to get from there to here, and I know that the Senators are sensitive on occasion to major education Bills coming up at the last moment, but I strongly urge that each of you become familiar with this Legislation, because it is going to be a multi-million dollar cost, and because it is going to have a very real impact on your local constituents.

Majority Ought to Pass as amended Report accepted, in concurrence.

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

The President laid before the Senate: Bill, "An Act Relating to Judicial Review of Public Utilities Commission Decisions." (H. P. 226) (L. D. 290)

Tabled — June 17, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed

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

Mr. CURTIS: Mr. President, I have an Amendment to this Bill, which I would like to offer, and which I described briefly before. It is Senate Amendment "A" to LD 290 (S-267) which has been distributed for quite some time.

The Amendment is a very brief Amendment. It eliminates one sentence from Section 305 which has already been the subject of considerable discussion in this Senate. The purpose of the Amendment is to delete that provision in existing law which enables the Law Court to exercise its independent judgment as to Findings of Fact in any case which it would be reviewing regarding the Public Utilities Commission's decision.

The powers which would remain with the adoption of this Amendment to the Law Court include the review of the lawfulness of a rate decision by the Public Utilities Commission, and the power to modify, amend or annul any ruling or order by the PUC. The power would continue to exist for the Chief Justice or, in his absence, any other Justice of the Law Court to enjoin or stay the effects of any Order which is under review by the Law Court, and, finally, if there are issues of confiscation or of Constitutional rights which are involved, the Court would continue to have the power to order that additional evidence would be taken by the Public Utilities Commission, which evidence would promptly be reported back to the Law Court for their final decision.

The PRESIDENT: The Senator from Penobscot, Senator Curtis, has now offered Senate Amendment "A" to LD 290 and Moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" (S-267) Read and Adopted.

On Motion of Mr. Conley of Cumberland, Tabled until later in Today's Session, Pending passage to be engrossed.

The President laid before the Senate:

Bill, "An Act Concerning the Fees for Filing Municipal Tax Liens." (Emergency) (H. P. 1724) (L. D. 1884)

Tabled — June 17, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed.

On Motion of Mr. Speers of Kennebec, Retabled until later in Today's Session.

The President laid before the Senate: Bill, "An Act to Provide for the Licensing of Denturists." (H. P. 1689) (L. D. 1877)

Tabled — June 17, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed

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

Mrs. CUMMINGS: Mr. President, I am expecting an Amendment, which has not come to our desks yet. I would appreciate it if someone would table this until later in Today's Session.

On Motion of Mr. Speers of Kennebec, Retabled until later in Today's Session.

The President laid before the Senate: Bill, "An Act Concerning the Blue Sky Law." (S. P. 200) (L. D. 598)

Tabled — June 17, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed

This Bill, as amended, Passed to be Engrossed.

Sent down for concurrence.

The President laid before the Senate: Bill, "An Act to Require Adequate Polling Facilities in Municipalities." (S. P. 445) (L. D. 1535)

Tabled — June 17, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed

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

Mr. HICHENS: Mr. President, I now Move that LD 1535 and all its accompanying papers be indefinitely postponed.

The PRESIDENT: The Senator from York, Senator Hichens, now moves the indefinite postponement of L. D. 1535 and all its accompanying papers.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I would like to have the Committee Report read please.

The PRESIDENT: The Secretary will read the Committee Report.

Committee Report Read.

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

Mr. MERRILL: Mr. President, this bill which was supported by a vast majority of the members of the Election Laws Committee, which was also supported by some municipal officials who testified before the Committee, including those from my own city, and which has been reduced in its effect by the Committee Amendment, simply provides now that in a general election that when a President of the United States is elected, we will have a few more voting booths that will be available, and the experience that we had last fall was that a great many people had to wait an hour or two hours in some cases three hours because of the holdup, and there were not enough voting booths present for people to be able to cast a ballot in an expeditious manner, and this just provides that there will be a few more booths.

Interestingly enough, this new limit of 150 voters, one booth for every 150 qualified voters, and that would be the number qualified at the beginning of the day and, of course, not including the extra registration. Really, if you assumed that it would take people about five minutes to mark a ballot, and I do not think that is an unrealistic assumption when you consider that the proliferation of questions that are now on the ballot and the fact that people no longer as a matter of course vote a straight ballot, but

go through and consider each one individually, that this would allow people just about time enough for every person to vote in the course of the day. In other words, about 150 people could vote in each booth if it took five minutes per person, and there were people one ready to go in after another all day long. Now, of course, everybody does not vote. That is a goal that we would like to reach, but also, of course, everybody does not come in exact even flow. So, I think that this a realistic number, and I think that the Committee is restricting it only to general elections in which the President of the United States is elected, has certainly selected that time when a rush is most likely to be worse, and I cannot think of any good reason why we should not provide this service to the people who go out and vote.

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

Mr. HICHENS: Mr. President, as the good Senator from Cumberland has stated, this is for Presidential elections, but if the towns have to buy the booths, they are going to have to have them stored and have that initial cost, regardless of whether they are used every election for just for Presidential elections, and a great many small communities, such as the areas under my District, it means that they are going to have to get a new facility. They use the school rooms, or gymnasiums in the case of Kittery. In Elliot they have a town hall, and there is just not room for another booth. They would have to find another place in order to have these election booths put up, and it is a serious problem with the Government officials in my own area, and they have asked me to oppose the bill along with the Representative who signed the Minority Report.

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

Mr. CONLEY: Mr. President and Members of the Senate: I would like to agree with my colleague from Portland, Senator Merrill.

I think that the bill makes a great deal of sense, and it is understandable, too, the concerns of the good Senator from York, Senator Hichens. But I can only say the experience from our community, again being a larger metropolitan area, knowing that Bangor and some of the other larger cities encompass the same problems that Portland does on election day. It would seem to me that if we could keep the bill alive at least to amend it to be able to affect those communities that do have the problem. Not only do we suffer the problems of the state elections and bond issues that were put out in the general election, but the fact of the matter is that the City of Portland also had Charter Amendments that were put out at the same time to get a feeling, more broader feeling of what the general public felt relative to those Amendments.

So it would seem to me in noting that there is probably not the real serious problems that you would have in a rural community or a smaller community. It would seem to me that this Bill should at least remain alive to become flexible to allow an Amendment on it dealing with communities of 25 or 30,000 people or above.

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

Mr. LOVELL: Mr. President and Members of the Senate: I agree with my colleague, Senator Hichens from York. I represent 13 towns and most of them are small towns outside of Sanford.

Now I can understand that we have approximately 12 cities in the State of Maine and 470 communities outside of the 12 cities. Now if we could amend this bill for Portland and Bangor and some of the larger cities, fine. But I say this is a Home Rule Bill. Let us let the towns and cities do what they see fit, and spend what money they see fit. In my towns, I have never seen anybody that was unable to vote for the

President because there was too big a line, Acton, Shapleigh, Lebanon and those small towns. I agree with Senator Hichens. I think this is a Home Rule Bill.

I do not know how many of you ran on a Home Rule platform to give back more business, more work for your community, rather than let the State handle the communities. I feel that the State should not handle the Communities. Let the communities do what they see fit, and let the cities do what they see fit.

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

Mr. MERRILL: Mr. President, the question of providing adequate ability to vote to all our citizens is not a Home Rule question, and it is a responsibility of the State to see to it that people, no matter where they live, have a chance to vote without unnecessary delays, and I might say if someone who had the opportunity to follow the progress of last Fall's election in every city and town fairly closely, — certainly not as close as each one of you in your own areas, but I do think I had a chance to get a broad over-view of how the vote progressed in the course of the day, and this problem simply is not isolated to the larger municipalities.

Now I might say that it came out in the hearing conducted by the Senator from Kennebec, Senator Katz, that many communities offer more booths than the present requirement, or in fact in this requirement right now, and in those communities it was less of a problem, and I think if you did the calculation in some of your smaller communities where there are two or three voting booths, you would find that they far exceed the requirements that this would make available, but the requirement here that there be one booth for every 150 people I do not think is too onerous, and I would admit that some communities, including my own, will have to make some extra expense, but I think that it is money well spent if it makes it so that people do not have to wait two or three hours in order to exercise their franchise to vote, and I think it is a perfectly appropriate role for the State to play in doing so.

Under the expert questioning of the Chairman of the Election Laws Committee, the Senator from Kennebec, Senator Katz, when faced with the testimony of one municipal official in charge of this who was speaking in favor of it, it became readily apparent that even though the official was in favor of it, he was not completely successful in convincing the local officials that they should make the expenditure. In other words, the person in charge of the process favored it, but there needs to be a little prodding of the people in charge.

I think this is a very moderate measure and one which I certainly would hope that the Senate would pass here today, and I really think that with the advent of these modern cloth voting booths, the expense is not going to be too much for anybody, and if it results in a few more people voting, then I think it is an expense well made.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from York, Senator Hichens, that LD 1535 and all its accompanying papers be indefinitely postponed.

The Chair will order a Division.

Will all those Senators opposed to the Motion to indefinitely postpone, 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 Bill Passed to be Engrossed, as amended. Sent down for concurrence.

The President laid before the Senate:

Bill, "An Act to Allow Escape of Sublegal Lobsters from Lobster or Crab Traps." (H. P. 944) (L. D. 1139)

Tabled — June 17, 1977 by Senator Chapman of Sagadahoc

Pending — Enactment

The PRESIDENT: The Chair recognizes the Senator from Sagadahoc.

Mr. CHAPMAN: Mr. President, I move the rules be suspended.

The PRESIDENT: The Senator from Sagadahoc, Senator Chapman moves the rules be suspended. Is this the pleasure of the Senate?

It is a vote.

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

Mr. CHAPMAN: Mr. President, for the purpose of offering an Amendment, I would like to Move the Senate reconsider its action whereby it passed this Bill to be engrossed.

The PRESIDENT: The Senator from Sagadahoc, Senator Chapman, now moves that the Senate reconsider its action whereby LD 1139 was passed to be engrossed. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.

Mr. CHAPMAN: Mr. President, I now move the Senate Reconsider its action whereby it adopted Committee Amendment "A".

The PRESIDENT: The Senator from Sagadahoc, Senator Chapman, 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. CHAPMAN: Mr. President, I now move Senate Amendment "A" (S-281) and move its adoption.

The PRESIDENT: The Senator from Sagadahoc, Senator Chapman, 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 Sagadahoc, Senator Chapman.

Mr. CHAPMAN: Mr. President and Members of the Senate: This bill establishes escape vents for all Lobster Traps effective January 1, 1979. These escape vents will allow the sublegal size Lobsters to escape.

Tests have shown that the lobster traps fish better when these vents are included. It also allows for less damage and harm to the lobsters when they are caught, thrown out with damaged claws, and there is general agreement among the industry that this is a good measure. There has been some disagreement in the industry, however, on the exact size of the escape vents.

The purpose of this Amendment is to remove a provision which I feel is unnecessary and would be somewhat costly in this provision, Section 3. Some members of the committee were unaware that this provision ended up in the Committee Amendment, I being one of them. This particular provision requires the Department of Marine Resources to undertake a double parlor experiment to determine the size and number of lobsters that escape through a vent one and three-quarter inches in height. The Department has undertaken substantial numbers of studies on this particular matter. It feels that they have performed enough research to establish that the size of one and three-quarters is the right size to keep the legals and allow the sublegals to escape. Some lobster men may still disagree. I think the best answer to the whole question was given to me by a lobsterman who said in his view what difference does it make, whatever I cannot catch with a one and three-quarters inch hole, no one else is going to catch, and after it sheds its shell we will be able to catch him, so to that extent it could be a conservation measure if we are in fact going to allow some lobsters to escape through a one and three-quarters inch hole that is legal.

This provision, if it remains in the bill, would cause expenditure of some \$2,300.00, at least,

which could be well spent for other important matters. At the very best, the way the proposed research is set up, it is casual to allow the Department to have some lobsters set with different size for fishermen to fish, and there is a lack of control in the structure which would pose some question as to how reliable the results might be. The objective of this research is to establish, or to settle the question as to whether a vent size one and eleven-sixteenths might be more effective than a vent size one and three-fourths, a difference of one-sixteenth of an inch. Studies have been conducted on this matter by the Maine Department of Marine Resources, by Massachusetts, by independent studies, and even a study where a double parlor set-up was arranged so they could see what they caught, they did escape through these vents.

This is the purpose for my putting on this Amendment. I think enough research has been done. The matter does have a sunset provision after one year, so that it can be looked at at that time to see whether any further needs are in order.

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

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

Sent down for concurrence.

(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.

Reconsidered Matter

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

Mr. MINKOWSKY: Mr. President, in reference to Bill, "An Act to Implement the Recommendations of the Pomeroy Commission on Medical and Hospital Malpractice Insurance." (S. P. 205) (L. D. 727) I now move that the Senate reconsider its action whereby this Bill was passed to be Engrossed, and tabled it until later in the Session?

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, now moves that the Senate Reconsider its action whereby L. D. 727 was passed to be Engrossed.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I would inquire of the Senator as to the purpose of his reconsideration.

The PRESIDENT: The Senator from Knox, Senator Collins, has posed a question through the Chair.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President and Members of the Senate: During the period of time we were going over these various bills on the calendar, I received a letter which got me concerned about this particular legislation, and since very little debate had transpired on the legislation since it was passed out by the Judiciary Committee, and I thought to have ample time to read over the Bill entirely, and to discuss this matter with other members of the Judiciary Committee insofar as the concerns voiced by a firm in Portland, that the legislation is based on a false premise, i.e. that the passage will result in a reduction of insurance premiums is of significant value, enough to analyze this before passing to be engrossed, and that was my major concern was for that request.

On motion of Mr. Speers of Kennebec,

Tabled until later in Today's Session, Pending the Motion of the Senator from Androscoggin, Senator Minkowsky, that the Senate reconsider its action whereby this Bill was passed to be engrossed.

(Off Record Remarks)

On motion of Mr. Huber of Cumberland,
Recessed until 2:30 this afternoon.
(Recess)

After Recess

Senate called to Order by the President.
The President laid before the Senate:
Bill, "An Act Recognizing County Charters
and Establishing County Charter Commis-
sions." (S. P. 437) (L. D. 1648)

Tabled — June 17, 1977 by Senator Speers of
Kennebec

Pending — Passage to be Engrossed

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

Mr. SPEERS: Mr. President, I would call the
Senate's attention to this item. It has a Senate
Amendment "A" (S-266) which has been
adopted, and it also has a Committee Amend-
ment "A" (S-250). It is my understanding that
the two Amendments are incompatible, and I
would pose a question through the Chair to the
Chairman of the Committee on Local and
County Government as to which Amendment he
feels ought to remain on this bill.

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

Mr. JACKSON: Mr. President and Members
of the Senate: I was absent Friday, and there
was an Amendment put onto the bill which did
put it into conflict.

What I would suggest is if this Amendment is
to stay that we might be very wise in moving
the indefinite postponement of this bill and all
its accompanying papers.

I have an Attorney General's Opinion we re-
quested on this because of the response, because
of the response, and I see that he is absent from
the Chamber presently, but his concern was
that there are nine County Charters presently in
the state, which he maintains are valid, and the
Attorney General's Opinion rules that these are
invalid because of the change after the first
Legislature in 1820, the adoption of these
Charters, and it changed them from that point.

The Amendment, as I understand it, and I
have not had a chance to scrutinize the Amend-
ment very closely, but as I understand this rein-
stitutes what the sponsor of the Bill maintained
in his presentation in front of the Local and
County Government Committee. Now this does
put it in conflict with the Committee Amend-
ment that was passed in the House and down
here, and so, therefore, what I would suggest is
the possibility of moving the indefinite post-
ponement of this Bill and all its accompanying
papers, and I make that Motion presently, sir,
and I would urge the Members of this Body to
vote for that Motion.

On Motion of Mr. Jackson of Cumberland,
The Bill and all accompanying papers in-
definitely postponed.

Sent down for concurrence.

The President laid before the Senate:
Bill, "An Act Concerning Registration on
Election Day." (H. P. 1664) (L. D. 1864)

Tabled — June 17, 1977 by Senator Speers of
Kennebec

Pending — Passage to be Engrossed

Passed to be Engrossed as amended, in con-
currence.

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

Mr. COLLINS: Mr. President, is the Senate in
possession of Bill, "An Act to Repeal Certain
Laws Relating to Domestic Relations." (H. P.
1627) (L. D. 1830)

The PRESIDENT: The Chair would answer the
Senator in the affirmative, the Bill having
been recalled at his request and pursuant to S.
P. 558.

The Chair recognizes the same Senator.

Mr. COLLINS: Mr. President, I move that
the rules be suspended.

The PRESIDENT: The Senator from Knox,
Senator Collins, now moves that the Senate sus-
pend its rules. Is this the pleasure of the
Senate? It is a vote.

The Chair recognizes the same Senator.

Mr. COLLINS: Mr. President, I move that we
reconsider enactment of L. D. 1830.

The PRESIDENT: The Senator from Knox,
Senator Collins, now moves that the Senate
reconsider its action whereby L. D. 1830 was
passed to be enacted. Is this the pleasure of the
Senate? It is a vote.

The Chair recognizes the same Senator.

Mr. COLLINS: Mr. President, I now move we
reconsider engrossment of L. D. 1830.

The PRESIDENT: The Senator from Knox,
Senator Collins, now moves that the Senate
reconsider its action whereby L. D. 1830 was
passed to be engrossed. Is this the pleasure of
the Senate? It is a vote.

On Motion of Mr. Collins of Knox,
Tabled for One Legislative Day, Pending pas-
sage to be engrossed.

The PRESIDENT: The Chair at this time
would ask the Sergeant-at-Arms to escort the
Senator from Kennebec, Senator Katz, to the
Rostrum to act as President Pro Tem.

Thereupon, the Sergeant-at-Arms escorted
Mr. Katz of Kennebec to the Rostrum where he
assumed the duties of President Pro Tem, and
the President retired from the Senate Chamber.

Out of Order and Under Suspension of the
Rules, the Senate voted to consider the follow-
ing

Papers from the House

Joint Orders

Expressions of Legislative Sentiment
recognizing that: Gladys and Ed Lewis will
celebrate their 50th Wedding Anniversary on
July 2, 1977. (H. P. 1736)

Palmina Dinapoli has given 15,649 hours of
her time over a period of 32 years in helping the
patients of the Veterans Hospital at Togus. (H.
P. 1737)

The Girls Softball Team of Winslow High
School has won the State Class A Softball Cham-
pionship for 1977. (H. P. 1738)

Comes from the House, Read and Adopted.
Which was Read and Adopted, in con-
currence.

Joint Resolution

Fred E. Clark, Sr., of Saco, a former Coun-
cilman and School Board Member, who devoted
his life to public service. (H. P. 1740)

Comes from the House, Read and Adopted.
Which was Read and Adopted, in con-
currence.

Communications

Committee on Human Resources

June 17, 1977

The Honorable Joseph Sewall
President of the Senate
State House
Augusta, Maine 04333
Dear Mr. President:

It is with pleasure that I report that the Com-
mittee on Human Resources has completed all
business placed before it by the 108th
Legislature.

Total Number of Bills Presented	27
Recommitted Bills	1
Unanimous Reports	24
Leave to Withdraw	6
Ought Not to Pass	3
Ought to Pass	3
Ought to Pass in New Draft	2
Ought to Pass as Amended	10
Divided Reports	2
Change of Reference	2

Number of Amendments	12
Number of New Drafts	2

Respectfully submitted,

Signed: RALPH M. LOVELL
Senate Chairman
Which was Read and Ordered Placed on File.

Committee on Marine Resources
June 17, 1977

The Honorable Joseph Sewall
President of the Senate
State House
Augusta, Maine 04333
Dear President Sewall,

It is with pleasure that I report that the Com-
mittee on Marine Resources has completed all
business placed before it by the 108th
Legislature.

Total Number of Bills:	45
Unanimous Reports:	36
Ought to Pass	1
Ought to Pass in New Draft	3
Ought to Pass as Amended	13
Ought Not to Pass	4
Leave to Withdraw	15
Divided Reports:	8
Total Amendments:	19
Bill held until the second regular session	1

Sincerely,

Signed: JOHN D. CHAPMAN
Senate Chairman
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 Relating to Transportation to
Islands in Casco Bay." (H. P. 789) (L. D. 937)

Bill, "An Act Creating a Transit District in
Casco Bay." (H. P. 792) (L. D. 1015)

Leave to Withdraw

The Committee on Health and Institutional
Services on, Bill, "An Act to Coordinate the
Funding of and Admissions to Children's
Residential Care Facilities." (H. P. 487) (L. D.
607)

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 Establish a Permanent Governor's
Committee on Children and Youth." (Emergen-
cy) (H. P. 783) (L. D. 1013)

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 Establishing a Single Unit Within State
Government to Administer Human Services to
Children." (H. P. 1008) (L. D. 1211)

Reported that the same be granted Leave to
Withdraw.

Comes from the House, the Report Read and
Accepted.

The Committee on Transportation on, Bill,
"An Act to Re-establish the Town Road
Improvement Fund." (Emergency) (H. P.
1410) (L. D. 1579)

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 in New Draft

The Committee on State Government on, Bill,
"An Act to Improve the Effectiveness of the

State's Development Financing Mechanisms." (H. P. 1155) (L. D. 1474)

Reported that the same Ought to Pass in New Draft under same title. (H. P. 1727) (L. D. 1886)
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.

Senate

Ought to Pass — As Amended

Mr. Collins for the Committee on State Government on, Bill, "An Act to Improve Public Access to State Agency Rules by Providing for their Publication in a State Register by the Secretary of State." (S. P. 415) (L. D. 1411)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-286).

Mr. Collins for the Committee on State Government on, Bill, "An Act to Create the Maine Administration Procedure Act." (S. P. 493) (L. D. 1768)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-287).

Which Reports were Read and Accepted, in concurrence, 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 Permitting the Director of Public Lands to Sell Small Parcels of Public Reserved Lands with Legislative Approval. (H. P. 1681) (L. D. 1875)

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)

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

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

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

(See action later Today.)

Emergency

An Act Appropriating Funds for Maine Health Systems Agency, Incorporated, to Ensure That Quality Health Services are Available at a Reasonable Cost to all Maine People. (S. P. 173) (L. D. 490)

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

Reconsidered Matter

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

Mr. CONLEY: Mr. President, with respect to LD 1875, LD 242, LD 1872 and LD 1843, having voted on the prevailing side, I now move the Senate reconsider its action whereby these matters were Passed to be Enacted.

The PRESIDENT Pro Tem: The Senator from Cumberland, Senator Conley, now moves that the Senate reconsider its action whereby LD 1875, LD 242, LD 1872 and LD 1843 were Passed to be Enacted.

A viva voce vote being had,

The Motion to reconsider does not prevail.

Constitutional Amendment

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)

On Motion of Mr. Huber of Cumberland, Tabled for One Legislative Day, Pending passage.

Committee Reports Ought to Pass - As Amended House

The Committee on Business Legislation on, Bill, An Act Concerning Solicitation by Law Enforcement Officers. (H. P. 547) (L. D. 664)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-678).

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

The Committee on Education on, Bill, An Act Relating to the Right of Public and Private Residential Care Facilities to Provide Special Education. (H. P. 610) (L. D. 747)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-679).

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

The Committee on Health and Institutional Services on, Bill, An Act to Expand the Availability of Certain Social Services by Increasing Income Eligibility. (H. P. 1230) (L. D. 1475)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-672).

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

The Committee on Human Resources on, Bill, An Act to Require an Annual Adjustment in the Standards of Need for Families Receiving Aid to Dependent Children. (H. P. 1124) (L. D. 1342)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-653).

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

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

The Committee on Natural Resources on, Bill, An Act to Amend the Statutes Relating to Airmobiles. (H. P. 527) (L. D. 657)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-681).

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

On Motion of Mr. O'Leary of Oxford, tabled until later in Today's Session pending acceptance of the Report.

The Committee on State Government on, Bill, An Act to Provide Legislative Oversight of Appropriated Fund Transfers. (H. P. 1391) (L. D. 1618)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-680).

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

The Committee on State Government on, Resolution, Proposing an Amendment to the Constitution to delegate Certain Emergency Budgetary Powers to a Joint Legislative Committee. (H. P. 1397) (L. D. 1658)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-676).

Comes from the House, the Resolution Pas-

sed to be Engrossed as amended by Committee Amendment "A".

The Committee on Taxation on, Bill, "An Act to Assist Municipalities in the Acquisition of Land or Interests in Land." (H. P. 1407) (L. D. 1565)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-675).

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

The Committee on Veterans and Retirement on, Bill, "An Act to Establish a Maine Veterans Home." (H. P. 795) (L. D. 939)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-691).

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

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

Reconsidered Matter

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

Mr. O'LEARY: Mr. President, with reference to Bill, "An Act to Amend the Statutes Relating to Airmobiles" (H. P. 527) (L. D. 657), I move that we accept the Ought to Pass as Amended Report.

The PRESIDENT Pro Tem: The Senator from Oxford, Senator O'Leary, moves that we take from the Table and later assigned today L. D. 657. Is this the pleasure of the Senate? It is a vote.

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

Orders of the Day

The President laid before the Senate:

House Reports — From the Committee on State Government — Bill, "An Act to Amend the Powers and Duties of the Maine Committee on Aging." (H. P. 229) (L. D. 292) 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

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

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

The PRESIDENT Pro Tem: The Senator has the floor.

Mr. COLLINS: Mr. President and Members of the Senate: This Bill will provide civil and criminal immunity for anyone who files a complaint with respect to a nursing home or a boarding home.

I suspect that it comes about as a result of the Committee on Aging's concern for people who are reluctant to make complaints, but it does seem to me that it provides a great deal of immunity with no exceptions for this particular area of concern. Furthermore, we now have some 25 people who are engaged in the process of investigating in nursing homes and filing complaints, and, therefore, I think we need not to further extend civil and criminal immunity to anyone who files such a complaint.

Minority Ought Not to Pass Report Accepted, in non-concurrence.

Sent down for concurrence.

(Off Record Remarks)

The President laid before the Senate: Bill, "An Act to Revise the Maine Tort Claims Act." (Emergency) (H. P. 1680) (L. D. 1874)

Tabled — Earlier in the Day by Senator Collins of Knox

Pending — Adoption of Senate Amendment "A" (S-252) pursuant to Joint Rule 4.

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

Mr. MERRILL: Mr. President, I would ask for the indefinite postponement of Senate Amendment "A", and speak briefly to my Motion.

The PRESIDENT Pro Tem: The Senator has the floor.

Mr. MERRILL: Mr. President and Members of the Senate: The issue before us today in regards to the Maine Tort Claims Act is precisely the same issue that we were faced with when we accepted the Committee Report, and the effect of the present posture of this Bill with the Amendment that is before us is in essence to reconsider that action. The difference in this case being that the Motion which is in effect, the Motion to reconsider is being made by one who voted not on the prevailing side.

Now the Senate previously has taken the position that State employees ought to be immune from suit in those areas where the State itself has made itself, by virtue of the Tort Claims Act, immune from suit. I think that is a commendable position, and I would just like to review so that they are fresh in everybody's minds again now that this time has passed just a few of the things about this measure.

First of all, as I pointed out earlier, this approach was recommended in a report on liability claims against State employees to the 105th Legislature, a subcommittee that was headed by David Benson and Ken MacLeod, and which Harry Richardson served on as well.

Secondly, presently in the law there are three areas of immunity for State employees. Legislative immunity, Judicial immunity, and the area of discretionary immunity, a State employee acting in a discretionary manner. Let me re-emphasize the matter, the point that I made about that distinction the other day. It is a distinction that is so troublesome that it will create a great deal of litigation in our Courts if the example at the Federal level is at all helpful. This matter has been litigated in 314 reported cases in the Federal Government, and many of these cases do not get reported because it is decided at the administrative level. The word is so troublesome and so ambiguous that Prosser, who is the recognized expert on Tort Law, says that the word discretionary is a word which really does nothing to help the Courts decide these questions, and that neither justice nor the public interest should recommend keeping this distinction alive as a distinction on which to base whether or not immunity shall be granted.

Let me finally read from a letter dated May 18, 1977 and addressed to the Joint Chairman of the Judiciary Committee, a letter from Roger Mallar on this subject, in which he says the following "there has been considerable discussion of the matter of employee immunity. As I have conveyed to each of you, it seems to me that the existing Tort Claims Act does create a situation where government is immune in many areas where its employees are not, and the State Government may defend and indemnify its employees in those instances. This it seems to me as a lay person creates the very real possibility that from a practical standpoint government may not be immune at all, since if we are to deny defending and indemnifying our employees when they work within the scope of

their responsibility, we would not long have adequate capable employees interested in performing their tasks. My own personal preference in this area would be to see employees immune in the same areas where the governmental entity is also immune." That was the letter from Roger Mallar dated May 18, 1977.

So, I think because of the present distinction in the law is a difficult and unworkable one which will create a great deal of litigation, because the distinction is unfair that the State says that there are areas where we do not dare allow ourselves to be sued, it is unfair, I suggest, to allow the employees whose resources are much more limited, to be exposed to that suit, and because we have really left them once we have closed the door to the suit against the State, we leave the State employees hanging out there all alone in a situation much different than private employees face, where if they were acting within the scope of their duty, their employer is responsible equally with the theory of respondent superior.

For all those reasons, I would urge the Senate, in essence, not to reconsider its previous position, and to move to indefinitely postpone this Amendment that is offered, and when the vote is taken, I ask that it be taken by a Roll Call.

The PRESIDENT Pro Tem: The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Merrill, that Senate Amendment "A" be indefinitely postponed.

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 Knox, Senator Collins.

Mr. COLLINS: Mr. President, let me first respond to the two written materials that were described to you by the Senator from Cumberland, Senator Merrill.

He made reference to a Report done by the 105th Legislature. That Report has some values, but that Report did not address the total scene of governmental immunity in a way that the 108th Legislature has now addressed it. In addressing this problem as a whole, governmental immunity and employee immunity, the Judiciary Committee labored night and day last January in order to get an Emergency Act onto the books which would restore governmental immunity in the face of a Court action that had struck down that document. In the process of reaching those decisions we had to make a number of judgments about how far to go.

There were some who felt that government should have no immunity whatsoever. But when we looked at the cost consequences coming on us all of a sudden in an emergency situation, we said, no, that is not the way to go. There were those who would not have opened the door to any sort of liability on the part of government, and we said, well, that is not really the best way to go either, because there are a number of civil wrongs that ought to be redressed, and can we find some middle ground.

Well, we did find some middle ground and the middle ground is based on the idea that we should open to liability those areas where insurance can be obtained at a reasonable cost, and we were very attentive to the fact that this involves not only the State of Maine, but all of our cities and towns and districts and so on that are governmental entities. Now when you approach the whole problem in the light of what we were thinking then and are thinking now, you really have a different ball game than the 105th Legislature had.

The second thing is the letter from Roger Mallar. Roger Mallar's letter was written before the Committee had completed its work on this problem in the phase that is now before us. I have talked with Roger Mallar since then, and he has said to me that what he really wishes is that we could have left things the way they were way back, which, of course, would have been a total immunity situation for government. However, I think we have passed that position in our history of Tort Immunity, and we are moving down the road a way. I feel that it is wiser to move in steps that we can foresee and that we can insure, and that we can understand, and not try to do the whole thing too precipitously.

Now this position that is espoused in the letter from Commissioner Mallar is one that we gave a great deal of attention to, and the majority of the Committee came to the position which I have espoused before, and which I now support and ask you to reconsider, and one of the reasons that I felt we ought to take another look at it was that at least two Members of the Senate who voted against me before said to me following the vote and in further discussion that they had a particular concern for those people receiving very modest wages, who were working on the highway, who were working in construction projects, who were involved with day labor, who were pushing the mops and the brooms in the public buildings. Now, all of those people are taken care of by virtue of the doors that we did open in the original Act as further refined and defined in this Act.

Let me give you briefly a description of these areas that are exceptions to immunity, and wherever there is an exception to immunity, the State has responsibility for the defense of its employees and the indemnification of its employees. Governmental entity shall be liable for its negligent acts or omissions causing property damage, bodily injury or death in the following instances. There is quite a long list and just let me take out a few. The ownership, maintenance or use of any motor vehicle, special mobile equipment, trailers, aircraft, water crafts, snowmobiles, other machinery or equipment, whether mobile or stationary, in the construction, operation or maintenance of any public building or the appurtenances thereto, with certain exceptions that relate to tax acquired property just immediately after acquisition, to activities arising out of and occurring during the performance of construction, street cleaning, repair operations on any highway, townway, sidewalk, parking area, causeway, bridge, airport runway or taxiway, including appurtenances necessary for the control of such ways, including, but not limited to, street signs, traffic lights, parking meters and guard rails. There is another section about the sudden and accidental discharge of smoke vapors, soot fumes, acids, alkalines, toxic chemicals, liquids, gases, waste materials, irritants, and so on, into water courses and bodies of water.

Now I think that this outlines to you that in these areas that are most commonly exposed to Tort liability, the man working on the highway, the person pushing the broom in the public building and all of the related activities having to do with the use of equipment in a broad sense, that we are protecting those people. We are providing that there is the opportunity for insurance. In some cases the State may serve as a self-insurer. The Governor in his message to us last January, and in the current budget materials, has set aside the money so that there will be State funds available in the areas where we are self-insurers.

What the Senator from Cumberland, Senator Merrill, is asking you to do is to go further with respect to the employees of the State. Now you and I are employees of the State of Maine. We are legislators, and in our legislating we have

immunity as described by the Senator from Cumberland, but we do other things in the scope of our employment, and we are saying, if we take the position of the Senator from Cumberland, that we are immune from the wrongs that we commit.

There seems to be a sort of virus spreading around in the Senate. I am not sure where it started. There is a rumor it started in the second seat from the aisle. It spread to the aisle seat, and then it jumped the aisle and then it started south and pretty soon it was breaking out all over the Senate, and members of both parties, and that virus, I suggest to the Senate, is a dangerous virus. It is dangerous because it strikes at the sense of individual responsibility.

Now, as I understand it, if we take the position of the Senator from Cumberland — let me give you a hypothetical case, very hypothetical — but suppose that I go in to see my Majority Leader with a large book in my hand, in the course of my employment, to consult him about a difficult piece of legislation where I want his judgment. Suppose that I have had perhaps too much refreshment for lunch, and I have become a little awkward, I should know better, and I trip and very carelessly fall forward and the book flies into the face of the Majority Leader and it breaks his contact lens, and he falls to the floor, and blood streams from his eyes, and he goes to the hospital, and he really suffers pain and suffering and expense, and he is out \$1,000.00. What can he do about it? If you take the position of the Senator from Cumberland, he cannot do anything about it. He cannot sue me. I am immune. I am immune. This happened in the course of my employment as a State employee. What can he do? Well he has got to go to the Legislature and have a special Act for permission to sue the State of Maine.

Now a more likely situation, let us say, would be over at the Augusta Mental Health Institute, suppose that there is an attendant there whose duty it is to see that every three hours a very difficult client of that institute receives a pill, which keeps that client in a condition so that he is not dangerous. Let us suppose that this attendant is flirting with another member of the staff over there, and so she neglects to give that pill at the time appointed, and so the person under care becomes violent and attacks a fellow patient, damages that patient, damages an attendant. Who can be sued? If we pass this immunity situation, no one. The attendant who negligently failed to perform her duty is immune.

Now if that is the kind of policy that the Senate wants to encourage in the State of Maine, you should vote with the Senator from Cumberland, Senator Merrill. But I submit that that is not the wise policy. That would be, on the one hand, opening up some liability for the State in certain areas, but slamming shut the door to all recovery in other important areas.

Now the time will come, I predict, when all Tort can be redressed without going to the Legislature. I think that is quite a ways down the road. I think we have to move in that direction slowly, observing experience, learning what it will cost, learning how we must budget for it and setting up the sort of problem that will deal with it on a fair and equitable basis. We have much to learn about this, and I submit that we cannot learn it all overnight, and that until we have learned more about it we ought to be very careful in making our state employees immune in these areas where the state is also immune.

Now some of my fellow Senators have said to me, well, should we not try to make things as nearly as possible like a private employer. That would be ideal and one direction in which we may go in years to come, but one thing that sometimes they forget is that suppose someone works for the power company and negligently injures another, and so the injured person sues

the worker and sues the power company at the same time in a joint action, gets a judgment and probably it is the power company's insurance carrier who pays the bill. The insurance carrier in most cases then has an action over against the employee, what we call subrogation. When I was a very young lawyer, I used to do salvage work, as we called it, for insurance companies on occasion, in which it was my duty to try to collect back from the employee that which the employer's insurance carrier had paid out. So this idea of equating the private sector and the public sector, you run into different roads and byways that you do not always think about unless you have been through this litigation process as I have.

I respect the compassion of the Senator from Cumberland, Senator Merrill, in wanting to free from liability the small wage earner, but in doing so we free from liability all kinds of wage earners employed by the State of Maine, and we establish a principle and I submit at the present stage of time it is a dangerous principle. It is a principle that says you are not responsible for the wrongs you do. You are immune. You are a sort of super person. I remember a former President of this Country that talked in that tone not too long ago. If he did it, it was right, and I think that is a dangerous attitude.

We hear from time to time in the halls of the Legislature, talk about lack of sensitivity on the part of the Bureaucracy, official arrogance, letters that are impolite, written to Maine citizens. Are we going to improve that situation if we say to those people, well, you are immune. You can commit Tort in the scope of your employment. No one can sue you.

I feel that we do need to reconsider this matter. There are still some absent who ought to be voting on this today, and I realize that it is likely to be a close matter. I am glad that a Roll Call has been requested and ordered, and I would urge you to vote no on this Motion to indefinitely postpone so that we may adopt this Amendment.

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

Mr. MERRILL: Mr. President and Members of the Senate: I would like to begin by commending the Chairman of the Judiciary Committee, the good Senator from Knox, for making what I think was a very eloquent appeal for the position that he takes, which is that we should not extend immunity to the employees as we have extended it to the State. But I take some exception to his characterization of my appeal which includes quotes from Professor Prosser and from Roger Mallar as compassionate; and, therefore, I suppose is not vigorous or factual or academic, and then following that characterization with such phrases as dangerous principle, super person, references to President Nixon whose acts, of course, were not acts of simple negligence as the previous speaker being an attorney fully understands, and are, therefore, not comparable to what we are discussing here, and impolite letters, which I do not think by any stretch of the imagination one could be sued for, and if they could I suppose they would have a defense and that writing the letter was discretionary on their behalf.

These are emotion packed words, indeed, these words that we talk about, dangerous principle. The dangerous principle that has been ineffect for some time is that the State is immune, and that principle, to a great extent, is what we are keeping alive with the Maine Tort Claims Act. Now the Senator made an impassioned plea that we should not let these people make these decisions without the threat of suit hanging over their heads, because if we do the result will be that they will be impudent, and yet the State, the employer who makes at least as many decisions which affect the safety in terms

of the conditions under which the employee works and the tools which he has to work with, his immunity has been protected by the actions of the Judiciary Committee, in this case the State. Are we not concerned with the primary conduct that will result from that? I think we ought to be if we are concerned with the ability of the Tort Law to deal with these problems.

Now in regards to the example raised in this last minute appeal on the part of the Chairman of the Committee in regards to his act under the state of drunkenness, or his hypothetical act in regards to the Majority Leader, the Majority Leader has not retained me as counsel, but let me recommend workmen's comp as a possible solution to that problem. I think you will find it is satisfactory under the conditions as they were described.

I do not think that we can stand behind the fact that we have opened the door in certain areas, and say, therefore, we have dealt with the problem. I point out that the person who pushes the broom in this building will not be covered by this immunity because the State has opened itself up to that kind of suit, so we need not be concerned about him. There are hundreds and thousands of State employees who are left unprotected as a result of this, and, yes, they include the people who work in our Mental Institutions.

I think we ought to reflect for a minute on the types of work that we ask our State employees to undertake, and the conditions that we put them in, and the fact that many of the jobs which are done by the State through their employees are the most undesirable jobs in our society, and they are the jobs that involve judgments at all levels on the part of the people who do that, and I think the added burden of these underpaid employees of not just being fired, as I would hope they would be if they failed to do something as obvious as to not give medicine because they were flirting with another employee, but to also stand suit when they make these decisions, many of which are not as they are described. Remember we are talking about simple negligence here, and think of the types of decisions.

Let us just focus on one narrow area, the types of decisions that have to be made by the people who work as aides at the Augusta Mental Health Institute, the types of decisions that they make, and ask ourselves is it fair for the State to say we are immune, we the State who provide those facilities over here, and who may turn a deaf ear year after year to providing them with the sort of protection that they need, and the sort of money they need to be able to do a safe job, that we are immune in that, but the employee who struggles with what is there, and who earns, let us say, so that it is not emotional, \$150.00 a week, let us make it one of the better paid, but he is eligible for suit. I do not think that is a tenable position, nor do I think it is tenable to say that if the decision is discretionary, whatever that word means, and I have already talked about Professor Prosser's views of the fact that that word does not create a real distinction. Is it really meaningful to say that the person at the high level who makes discretionary decision will not be liable for suit, but the other person will be, the person at the bottom level. Let me read what Professor Prosser says on that, so that if anyone is passionate, it can be the Professor. It concludes by saying "nor does justice of the public interest suggest that the petty official, who is honestly trying to obey orders, should be liable for a mistake, while those who are charged with the decision escape all liability." That is the position of Professor Prosser in one of his more passionate moments. You have heard the position of Roger Mallar, another carrier of this virus that was referred to earlier by the previous speaker.

I think that the trend to relax the safeguards of sovereign immunity is a good one. I support

it now, as I have supported it in the past, but I think as long as the State is going to make itself immune from certain acts, that that immunity ought to be granted to the employees as well, and I suggest that honestly and impassionately if we think about the people who are working at AMHI tonight, if we pass this Bill here today, as they go about their duties as psychiatric aides over there tonight, I can guarantee everyone in this Senate they will not think of themselves as super citizens. Quite the contrary. They are citizens who are in effect doing the dirty work of society, at very low wages, hopefully because they feel some dedication to the state, and hopefully they will feel in turn that the State thanks them for their services, and that is why I think the letter from Roger Mallar is so important. His arguments, no matter who they were made by, are so important to take into consideration, because he says in essence either the whole concept of immunity is a facade, and you stand behind the employees or you will not be able to keep, and in his words adequate, capable employees interested in performing their tasks.

I suggest that the alternative that he proposes, the alternative that I propose, be it a virus or an allergy, is the one that this Senate should stick with. It is the one that I voted previous, and it is the one that should stick with today.

The PRESIDENT Pro Tem: Is the Senate ready for the question?

A Roll Call has been ordered.

The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Merrill, that Senate Amendment "A" be indefinitely postponed.

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 — Carpenter, Chapman, Conley, Cummings, Danton, Farley, Jackson, Levine, Merrill, Minkowsky, O'Leary, Pierce, Pray, Speers, Usher.

NAY — Collins, D.; Collins, S.; Curtis, Greeley, Hewes, Hichens, Huber, Katz, Lovell, Morrell, Redmond, Snowe, Trotzky, Wyman, Sewall.

ABSENT — Mangan, Martin, McNally.

15 Senators having voted in the affirmative, and 15 Senators in the negative, with 3 Senators being absent, the Motion to indefinitely postpone does not prevail.

The PRESIDENT Pro Tem: Is it now the pleasure of the Senate to adopt Senate Amendment "A"?

The Chair recognizes the Senator from Cumberland, Senator Conley.

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

The PRESIDENT Pro Tem: The Senator from Cumberland, Senator Conley, requests a Roll Call. 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 adopt Senate Amendment "A".

A yes vote will be in favor of adoption of Senate Amendment "A". 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, Katz, Lovell, Morrell, Redmond, Snowe, Trotzky, Wyman, Sewall.

NAY — Carpenter, Chapman, Conley, Cummings, Danton, Farley, Jackson, Levine, Merrill, Minkowsky, O'Leary, Pierce, Pray, Speers, Usher.

ABSENT — Mangan, Martin, McNally.

15 Senators having voted in the affirmative, and 15 Senators in the negative, with 3 Senators being absent, the Motion to adopt Senate Amendment "A" does not prevail.

The PRESIDENT Pro Tem: Is it now the pleasure of the Senate that this Bill be passed to be engrossed.

The Chair will order a Division.

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

Will all those Senators opposed to passage to be engrossed please rise in their places to be counted.

15 Senators having voted in the affirmative, and 15 Senators in the negative, the Motion fails of passage.

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

Mr. SPEERS: Mr. President, I move this item lie on the Table for One Legislative Day.

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

Mr. MERRILL: Mr. President, a parliamentary inquiry, tabled pending what?

The PRESIDENT Pro Tem: The Chair would advise that the Bill is no longer before us. The proper motion might have been to reconsider our action whereby the Bill failed of engrossment.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I request leave of the Senate to withdraw my Motion.

The PRESIDENT Pro Tem: The Senator from Kennebec, Senator Speers, now requests leave of the Senate to withdraw his Motion to Table for One Legislative Day. 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 would move that the Senate reconsider its action whereby this Bill failed of engrossment.

The PRESIDENT Pro Tem: The Senator from Kennebec, Senator Speers, now moves that the Senate reconsider its action whereby this Bill failed of engrossment. Is this the pleasure of the Senate? It is a vote.

On Motion of Mr. Conley of Cumberland, Tabled until later in Today's Session, Pending Passage to be Engrossed.

The President laid before the Senate:

Senate Reports — from the Committee on Business Legislation — Bill, "An Act Requiring Average Net Cost Comparison of Life Insurance Companies." (S. P. 125) (L. D. 304) 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

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

Mr. PIERCE: Mr. President and Members of the Senate: The item which we are now going to consider is perhaps, I am sure, not going to be as exciting a vote as we just had, but certainly is a Bill which has been rather well celebrated since its introduction into the Legislative process. I would like to take just a few minutes to explain to you some basics of the Bill. I am sure some people may have some questions which I would be happy to attempt to answer at that time.

I think undoubtedly most of you are aware

that this Bill is the brainchild of Governor Longley, and was introduced by myself on his behalf. This Legislation has been designed to protect consumers from expensive life insurance costs. Consumers who can only afford small amounts of life insurance seem to be the primary targets for those companies making extremely high cost changes if a policy is surrendered. Since out of approximately every 100 policies that are issued in the State today, 62 of them for various reasons will be surrendered by the end of ten years, so it can be seen from a practical standpoint the cost to these consumers is very real. Such costs include both high expense charges and excessive profit margins.

At the present time such costs are uncontrolled, and there has been no effective action on the part of the life insurance companies to correct or police these costs. The purpose of this Legislation is to reduce the exposure of consumers to such high cost companies. It is accomplished by developing a representative cost for each company, and providing that any company with a cost 50 percent greater than that of the average of the five lowest cost companies, must bring its costs into line within two years or stop selling insurance and doing business in the State of Maine.

This Bill does not regulate rates, but rather sets a limit on high expenses and excessive profits. Expense limitation of life insurance companies is not new, having been enacted in several states as far back as 1909. Like any type of Legislation pertaining to insurance, this Bill has special terminology particular to the industry. However, I think the terms are well known within the industry and used every day by both the companies and their salesmen.

I would like you to take a look at the Bill, or more correctly the redraft which is S-289. This inadvertently was not printed correctly as a Committee Amendment and should have; therefore, it is listed under S-289. Section I applies to any life insurance company applying for admission to sell insurance in the State of Maine. It points out that its representative cost must meet the same requirements as any of those already licensed.

Section II sets forth the methods to be used to determine a company's representative cost, also carefully sets forth criteria which will be common for all insurance companies and deals with the type of coverage usually purchased by consumers who can only afford small amounts of insurance. The section also provides for a public hearing to give all interested parties a chance to be heard, and it provides for an appeal from this hearing. The Section sets forth several exclusions for coverages which do not apply, and ends by providing a two-year period in which the company may comply with this Legislation.

I am sure it is important to note that there are 263 life insurance companies doing business in the State of Maine. This legislation, if enacted, would potentially affect only 31, and those 31 companies would have this two-year period to come into line, so that in all probability only a handful of companies would ultimately be prevented from doing business within the State. These companies represent only about two percent of the business written in the State.

I think a lot of us as lay people do not have a great insight into the insurance field, and I am sure that I have based a great deal of my support on this Bill on two or three people, particularly the Governor, who obviously has some of the best knowledge of the insurance field of anyone in the country, people like the Commissioner of Business Regulation, who spent over 30 years with one of the largest and most outstanding companies within the State of Maine, people who have actuarial experience. And it is upon the recommendations of these people and

the strong support from them that I would ask that you accept the Minority Ought to Pass Report.

The PRESIDENT Pro Tem: The Senator from Kennebec, Senator Pierce, moves that the Senate accept the Minority Ought to Pass Report of the Committee.

The Chair recognizes the Senator from York, Senator Farley.

Mr. FARLEY: Mr. President, first of all, when the vote is taken I request it be taken by the yeas and nays.

Mr. President and Members of the Senate: If an award was presented to members of this Body for courage above and beyond the call of duty for sponsoring a particular piece of legislation, I imagine the Senator from Kennebec, Senator Pierce, would be the run away winner.

I would like to point out a few major points on this piece of legislation to the majority of the Committee who supported the Ought Not to Pass Report. First of all, the Bill would judge companies based solely upon how they compare with the cheapest companies in the state, with no consideration of quality, reliability or service. The form on which the bill is based is invalid and subject to manipulation by companies which may want to shop best, without really offering the best product. This approach to "consumer action" has been rejected by the National Association of Insurance Companies, which has written model life insurance consumer measures and urged its adoption in 50 other states.

The Bill would provide the consumers themselves with no really meaningful disclosure. The NAIC Bill, which other states have adopted, would. The Bill amounts to price setting which is very dangerous in life insurance areas, because of the long term nature of the insurance contract.

The Bill uses an index that would suggest that companies to write policies could easily meet this index. However, it would probably stay in the briefcase and never be offered to the consumer. I think it is on this basis alone there is a better approach to this piece of legislation that I would urge you to defeat the pending motion and urge that you vote against the Senator from Kennebec.

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

Mr. CHAPMAN: Mr. President and Members of the Senate: I am a member of the Business Legislation Committee that heard the Bill. It occurred to me after getting into this bill somewhat that I might possibly have a conflict of interest.

In pursuing this matter, I did make a request of the Commission on Governmental Ethics and Election Practices for a determination. They did convene and heard my request on the 15th of June and I would like to quote from a letter I received from the Commission on that date.

"The Commission on Governmental Ethics and Election Practices finds that in this case a conflict of interest does exist. The Commission recommends that you refrain from official consideration of the Legislation in question."

Therefore, Mr. President, I respectfully request leave of the Senate to abstain from voting on this issue whenever it is before the Senate.

The PRESIDENT Pro Tem: The Senator from Sagadahoc, Senator Chapman, asks leave of the Senate to refrain from voting on this issue because of a conflict of interest. Is it the wish of the Senate to grant this leave? It is a vote.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I was attracted to this Legislation by an inquiry from my local insurance agency. They are quite disturbed over it as a sort of price fixing measure,

one that they did not fully understand, and I do not say that I fully understand it either, but I did take the trouble to borrow materials from some members of the Business Legislation Committee and to review those materials, and I ended up giving most of my confidence to those commentators who, it seemed to me, were the most objective and impartial.

As I understand it, this legislation would drive out of the State of Maine about 32, 31 or 32 life insurance companies. At the same time I heard the Senator from Kennebec, Senator Pierce, say that within the two year grace period that would be afforded these companies, they would be able to get into compliance, and I looked at the statement by Bartley Munson, a Fellow of the Society of Actuaries, and he said this. He said, "I am confident that any company who is notified of non-compliance could conform within a year, with no benefit to the consumer resulting. This can be done through a variety of means, including designing and pricing a policy which is out of line with the rest of one's rate book, but which singular plan one does not intend to sell to any extent."

In other words, it seems to me that this is the sort of thing where companies could develop lost leaders, as we would call them in general merchandising businesses, and it seems to me that those five companies who are to become the model of excellence, and the measurement for the other 200 odd companies, could very well themselves develop lost leaders which would further pare the number of companies that could do business in the State, and this sort of moving target program could go on and on, and it seems to me the result would be greatly lessened competition, and I really wonder if that is good for the consumer. I really have doubt whether this measure can help the consumer in the manner that it hopes to do.

I think that we ought not to go into any price fixing measure in a highly competitive business, unless there is a very strong case for it. I am reminded of the philosophical discussion last week in this Chamber coming from the Senator from Cumberland, Senator Morrell, when he spoke about price fixing in one industry, and how it would need to spread into another industry if we were to do fairly among different components of the business sector. So I have some questions of fairness on my mind as well, and perhaps I do not understand it all, but I really do not see how this measure is going to be the boon for the consumer that I am sure it is intended to be.

I would request a Division if one is not already requested.

The PRESIDENT Pro Tem: 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 Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President and Members of the Senate: I, too, have been in somewhat of a quandary in reference to this particular piece of Legislation, and I have received many pieces of mail from various insurance companies doing business in the State of Maine who are really very concerned.

My only concern as has been discussed with some people is that if these people are compelled to cease operations in the State of Maine, what happens to the insured at the time who may not be able to purchase insurance because of conditions of health. I would like to pose that as a question to the Chairman of the Business Legislation Committee, who, if he cares to answer, I would appreciate his answer.

The PRESIDENT Pro Tem: The Senator from Androscoggin, Senator Minkowsky, poses

a question through the Chair to anyone who may care to answer.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Mr. PIERCE: Mr. President and Members of the Senate, it would be my contention that out of these 31 companies, probably most of them would come into line and adjust their profits downward so that their net cost would not be above the 50 percent as allowed under the Bill. Some of them presently have profit margins as large as 170 percent.

So I do not think there would be any people who would not be able to get insurance, and I do not think we would be driving any companies out of the State of Maine, but I know and you know that when you get calls from your friendly Metropolitan agent or your Prudential agent, or the list goes on and on, and ask you to vote against this, they are friends of yours they are friends of mine, and I know what is going to happen to this particular piece of Legislation. But I think at least we have seen the tentacles of the most gigantic lobby I have ever seen since my three years here in the Senate, and I have seen them reach from Chicago and Atlanta and Los Angeles and all over the United States in an attempt to kill this Bill, and it has been mainly from companies who are not even affected by it, and that, I guess, makes me just a little bit suspicious and just makes me wonder if it is not just a little bit of clubiness, and they are taking care of all the boys in their club, not just the ones who will not be affected, because most of the companies we have in the State of Maine are good companies, and they would not be affected by this.

But I think at least it has brought the matter to the attention of the Legislature, and that perhaps some of these companies, and I am sure there are at least a few who are ripping off the public, will know that there was Legislation that was pending, was given serious consideration, and maybe, in fact, they will make an attempt to clean up their own house at long last, because I think certainly there are at least a few of them who need to do so. I think that at least the Governor and the Commissioner of Business Regulations and some of us on the Committee saw that perhaps there was a problem, whether or not this particular Bill addressed the problem in the exact way it should have been addressed, obviously is a question for some conjecture. But, at least it was brought to our attention, and I am sure perhaps in that respect at least some good will come of this measure having been introduced into the 108th Legislature.

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

Mr. FARLEY: Mr. President and Members of the Senate: Very briefly the problem here is the system we use on the index. It does not affect most of the largest and best companies in this State. If you are going to use this index the bad companies can easily adjust their policy to fit well inside that index, and never issue a policy or write up a policy to meet the index even lower, and never sell that policy afterwards, merely go to the standard policy they are selling now. The index means nothing. I think that is the complaint of the major insurance companies.

The PRESIDENT Pro Tem: Is the Senate ready for the Question? The question before the Senate is the Motion by the Senator from Kennebec, Senator Pierce, that the Senate accept the Minority Report of the Committee.

A yes vote will be in favor of accepting the Minority Report. A nay vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

YEA — Levine, Pierce, Sewall.

NAY — Carpenter, Collins D.; Collins S; Conley, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Hichens, Huber, Jackson,

Katz, Lovell, Merrill, Minkowsky, Morrell, O'Leary, Pray, Redmond, Snowe, Speers, Trotzky, Usher, Wyman.

Absent — Mangan, Martin, McNally.

3 Senators having voted in the affirmative, and 26 Senators in the negative, with one Senator being excused, and with 3 Senators being absent, the Motion to accept the Minority Majority to Pass Report does not prevail.

Majority Ought Not to Pass Report accepted.

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

MR. HEWES: Mr. President, having voted on the prevailing side, I would move reconsideration, and I hope you vote against me.

THE PRESIDENT Pro Tem: The Senator from Cumberland, Senator Hewes, now moves that the Senate reconsider its action whereby the Majority Ought Not to Pass Report was accepted.

A viva voce vote being had,

The Motion to reconsider does not prevail.

Sent down for concurrence.

The President laid before the Senate:

Bill, "An Act Relating to Judicial Review of Public Utilities Commission Decisions." (H. P. 226) (L. D. 290)

Tabled — Earlier in the Day by Senator Conley of Cumberland

Pending — Passage to be Engrossed

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

The President laid before the Senate:

Bill, "An Act Concerning the Fees for Filing Municipal Tax Liens." (Emergency) (H. P. 1724) (L. D. 1884)

Tabled — Earlier in the Day by Senator Speers of Kennebec

Pending — Passage to be Engrossed

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

The President laid before the Senate:

Bill, "An Act to Provide for the Licensing of Denturists." (H. P. 1689) (L. D. 1877)

Tabled — Earlier in the Day by Senator Speers of Kennebec

Pending — Passage to be Engrossed

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

Mrs. CUMMINGS: Mr. President: I would like to offer Senate Amendment "B" (S-285) and I would speak to my Motion.

THE PRESIDENT Pro Tem: The Senator from Penobscot, Senator Cummings, now offers Senate Amendment "B" and moves its adoption. The Secretary will read the Amendment.

Senate Amendment "B" Read.

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

Mrs. CUMMINGS: Mr. President and Members of the Senate, this Bill is, with my Amendment, in essence the Minority Report.

I have looked this over thoroughly, and am convinced that there are enough safeguards built into this amendment so that truly the citizens of the State of Maine would be well served by passing it. The Board which has the prime control over the Denturists, their licensing, their education, their practice, that Board consists of dentists who are appointed by the Governor. Surely, they are not going to allow men or women to practice denturism without adequate training or supervision.

It says that no denturist shall take impressions and bite registrations for the purpose of or with a view to the making or producing of an individual's first prosthetic device, until that individual presents to the denturists a certificate from a dental surgeon or medical doctor. Now surely the dentists can protect themselves in

this point of view. If they do not want a certain denturist or any denturist at all to practice then they just do not give them that certificate.

However, the certificate, if they do give it, shall certify that the individuals mouth is free from infection, sores and other medical problems. The Certificate shall have been signed by a dental surgeon or medical doctor not more than 30 days prior to the day on which the denturist takes the impression or bite registration of the individual.

After all this is done, then the Board that has set up the education and has set up the examination and the licensing shall make a report to the Joint Standing Committee on Health and Institutional Services of the Legislature on or before April 1978. This Report shall consist of a description of the Board's progress in the implementation of this subchapter, including whatever information may be requested by that Committee. That again is, I think, another way of getting this under control, if by some chance when this is in practice certain aspects of it have been overlooked, and it does not turn out to do what it was intended to do, there is another chance next Spring to adjust it.

As you may or may not have read, — you have so few things put on your desk, you may have missed it, but I did have put on your desks a copy of the Bangor Daily News editorial, which said that they felt that after some research that the major problems in Maine come from people who have already dentures and cannot afford to have them adjusted as the years go on and their jaws change and they need to have adjustments, they cannot afford it, so, therefore, they perhaps do get lesions and sores and have problems.

This Bill, I think would go a long way towards fixing that particular problem. We are not a wealthy State. We have a larger percentage of those who cannot afford the rates that are charged by many dentists, and I would hope that you would see your way clear to giving this your approval today.

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

Mrs. SNOWE: Mr. President and Members of the Senate: I move for the indefinite postponement of Senate Amendment "B" and would speak to my Motion.

THE PRESIDENT Pro Tem: The Senator has the floor.

Mrs. SNOWE: Mr. President, I Move to indefinitely postpone this Bill, since this Amendment would reinstate the Minority Report which was rejected unanimously last week.

Since we are here to Legislate in the best interests of the people, my recommendation is that we should require the denturists to remain under the supervision of a dentist. As we all are aware, ill fitting dentures can create serious problems. Inserting dentures are important and particularly important if they are ill fitted. I think it constantly requires supervision by a dentist and constant examination.

Should we allow substandard merely to lower cost? I say no. In fact, I would seriously question that cost, in fact, would be lowered if we should allow denturists to practice on their own.

The Bill does require oral certificates. Well, these oral certificates would be one time only situation. It does not prevent even after the denturist has put the dentures in the person's mouth complications could arise after that. We also have advertising Bills that are coming along the way that would allow dentists to advertise, and I think this would serve to lower the cost of dentures.

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

MR. PRAY: Mr. President and Members of the Senate: I would just like to point out a few things. First of all, the Minority Report was not

unanimously rejected by this Senate, because it was never before the Senate. This Body accepted the Majority Ought to Pass Report.

I would like to respond to a couple of things that the Chairman of the Health and Institutional Services Committee said in reference to this item that is before us, and I would raise three points.

First of all, supervision. The certificate of oral health is still going to put the denturist under the supervision of a dentist. I would try to deal with this issue in a practical way in the idea that the Bill as it now stands before us, without this Amendment, would require that for an individual to practice he would have to go under the supervision and into the office of a dentist, and as I look over at the number of individuals that I know in the dental profession, and there is a few of them, I do not see where too many of them have the additional office space to take in another employee, because basically that is what we would be doing. We would be stating this individual would have to work for a dentist. Now perhaps he would work on piece work, dealing with the amount of work he did as to what he would receive for pay, but he would be directly under the supervision of a dentist. The certificate of oral health allows this individual, or requires that an individual goes out and receives a certificate of oral health stating that his mouth is free from infection and denturist can go ahead with the work. I think this is safeguards enough. This has taken place in Canada for awhile. Canada has finally repealed that section of law in the majority of the Provinces dealing with the certificate of oral health.

In relation to the cost factor, I would suspect that an individual working on his own, separate from being employed by a dentist or being part of a dental office, would be able to provide the service a lot less than he would be under the direct guidance of an individual in the dentistry field.

The third thing that the good Senator from Androscoggin, Senator Snowe brought up was complications after the dentures are fitted. There is nothing in the present law at this time of an individual that goes to a dentist and has a set of dentures fitted for them, that is ever going to put that person or to require that person to go back to that dentist if he does not so desire. So I would say that the same thing would be true of an individual that went to a denturist. If they had a problem with the dentures and they were ill fitted, that the individual would go back, I have faith in these people that they would perhaps require, the same as most doctors and dentists do, that you come back for another checkup after a short period of time to make sure that everything is fitting okay.

I think that we are not taking too big a step when we accept this Committee Amendment. I would point out that I wish you would all take time to read the Bangor Daily News editorial, particularly because it is one of the few times I have ever agreed with that paper, but as I read through it, and I would point out that if you read the last four issues or items which are earmarked for you with the small arrows. I think it is a time this State took a giant step in the correct direction dealing with paramedical care, particularly dental care for Maine people.

At the hearing, numerous numbers of individuals along the Maine border spoke about going across into Canada to receive these same services. These individuals through the St. John Valley and through Aroostook County and Washington County area all crossed the border because the care was provided. None of them had complaints. No individual going across the border into the Canadian areas where the denturists practice came before that Committee to complain.

Listening to these people, particularly the senior citizens of our State, as they asked and

pleaded for a little assistance from the Legislature in keeping high medical costs down for them, I view this issue as one of necessity, and that is why I signed out the Minority Report the other day and why I will support this Amendment.

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

Mr. LOVELL: Mr. President and Ladies and Gentlemen of the Senate: I had not intended to speak on this Bill. This Bill three years ago, in the 107th, was before the Committee I was on, Health and Institutional Services, and the Bill was defeated in the House, the other Body rather. Consequently, I feel as the good Senator from Androscoggin, Senator Snowe, let us approach with some sort of care. Let us not go too fast on this. Eventually we will probably have a separate dentist profession, but at the present time the denturists have no education on working on the soft tissues of the mouth. Five percent of all cases of cancer start in the mouth. So, consequently, ill fitted or badly fitted — in fact, we had one member in the other Body, Representative Carroll's friend who the dentist discovered cancer in his mouth and saved his life by taking out part of the jaw. Now, if he had gone to a dentist he would have definitely lost his life.

I think that we should take this by degrees and not go too fast. I think the first step is what the majority of the Committee is suggesting, and that first step is for the dentist to work with the dentist. Now I think in most cases the dentist, except some of the old timers that are ready to retire, I think most of the dentists will be very happy to take the dentist in and train him and give him the experience necessary, and then maybe in another session why we can go ahead with setting up an educational program, but I feel that at this time that we should go along with the Majority Report and I would hope that you would defeat the Amendment, because if you do not, it might cause serious harm to many people in the State and, in fact, the President of the Maine Dental Association has written me a personal letter here about a year ago, and the Maine Dental Association, if any person who does not have the funds will write to Westbrook of the Maine Dental Association, he will see that they will get a set of false teeth for \$88.00.

The PRESIDENT Pro Tem: The Chair at this time would ask the Sergeant-at-Arms to escort the President to the Rostrum.

Thereupon, the Sergeant-at-Arms escorted the President to the Rostrum, and the Senator from Kennebec, Senator Katz, to his seat on the floor of the Senate.

The PRESIDENT: The Chair thanks the Senator from Kennebec, Senator Katz, for his extremely fine job.

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

Mr. HICHENS: Mr. President: I would rise to oppose the Amendment which has been offered to us. The good Senator from York and myself sat on the Health Institutional Services Committee last Session and heard this Bill debated back and forth in an over crowded hearing. We heard it debated on the Floor of the Senate and we felt that it was a very wise decision to turn it down.

I do not think the two Bills we have had this year are too much different than, or comes too much different a proposal as what we heard two years ago. I know you were all greatly impressed last week with the exhibition we had out in the rotunda, which in my own personal opinion should never have been allowed but the Bill before us to make a debate on at that time, but I think the dentists could have put an exhibition on the other side of the hall showing many of the problems which would arise by allowing the

denturist to have unlimited access to making teeth for the elderly people as has been suggested by the good Senator from Penobscot County.

We always hear about doing things for the elderly and I am the first to want to do things for the elderly, but I do not think it is fair to let them believe they are going to get these teeth which are going to be very satisfactory at a very low price. There is a lot of difference between price and the value, real value of a product which we have offered to us, and I would go along with killing this Amendment and reluctantly go along with the Majority Report, because personally I think the whole thing should be scuttled.

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

Mrs. SNOWE: Mr. President and Members of the Senate, I would just like to make a couple more points. In reference to this oral certificate, as I mentioned before it is a one time situation, one time requirement. If a person has to go to a denturist for ill fitting or adjustments to their dentures, they do not need another oral certificate, or if a person already has dentures, that means the person does not have to get an oral certificate from a dentist. In addition, certain complications can arise in the meantime, and I feel that a dentist is far more qualified to detect any irregularity than a dental technician, and as far as the elderly are concerned, I, too, am concerned about the elderly and recognizing high costs of dentures, but the Committee on Aging did not take a position on this Bill because they had a number of reservations, and I think that if they felt that this was an ideal situation for the elderly, that it would provide improved dental care for them, I think they would have come out and wholeheartedly supported it.

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

Mr. PRAY: Mr. President and Members of the Senate, I would just like to respond, first of all, to the statements by the good Senator from York, Senator Lovell, in reference to his desire that there be some type of educational requirement. I will just read the amended form of the Amendment that is now before us in relation to rules and regulations required. "The Board shall adopt rules and regulations relating to the licensing of denturists. The contents of these rules and regulations shall pertain to but not need be limited to the following: administrating procedures, procedure requirements relating to the issuance of temporary denturist license and the method by which denturists are required to practice, establishment of educational requirements for the purpose of eligibility for licensing, and it goes on with several other requirements which rules and regulations will be established. The educational requirements are in the Amendment.

I think that if we are going to take action, then we should learn from our neighbors in the North, the Canadian Provinces, on the issue that they have gone through for a number of years. As a matter of fact, at the Committee we have had a number of dentists, we had one particular dentist, I think it was in California who is in favor of this Bill, so not all dentists are opposed to it.

But I would point out the fact that dentists have brought this upon themselves. This issue has been before us before, as the good Senator from York, Senator Hichens mentioned, and the issue to me becomes very clear between the two Bills, or between the Bill as it is now written and this Committee Amendment. We are saying that the dentist, or the Maine Dental Board made up of five dentists and one consumer advocate who has not yet been named by the Governor, thus we have a Maine Dental Board made up of five dentists, who will set the rules and regulations for the denturists. There

is number one protection. If the second problem of protection deals with the certificate of oral health, I would be happy after this Amendment is adopted, to table this item and to put an Amendment on that which would state that the certificate of oral health is only good for so many days, but I believe that the Maine Dental Board or the Board of Dental Examiners would have the authority to do that through its rules and regulations as to how long the certificate of oral health would be good for.

I think that we should take positive action today. I am going to support the Amendment offered by Senator from Penobscot, Senator Cummings, and I would request a Roll Call on the issue.

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

Mr. LOVELL: Mr. President, just one more word in regard to this Bill. I think that we should not set up the rules at the present time. They should be set up in a separate type of Bill, but I would hate to see Maine be the first State to have denturists legally operating in the United States. Maine may be the first State in Vacationland, but I would hate to see us be the first State in Denturism.

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

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

The pending question before the Senate is the Motion by the Senator from Androscoggin, Senator Snowe, that Senate Amendment "B" be indefinitely postponed.

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; Collins S.; Curtis, Danton, Farley, Greeley, Hewes, Hichens, Huber, Katz, Levine, Lovell, Merrill, Morrell, Pierce, Snowe, Speers, Trotzky, Usher.

NAY — Carpenter, Chapman, Conley, Cummings, Jackson, Minkowsky, O'Leary, Pray, Redmond, Wyman.

ABSENT — Mangan, Martin, McNally.

19 Senators having voted in the affirmative, and 10 Senators in the negative, with 3 Senators being absent, the Motion to indefinitely postpone Senate Amendment "B" does prevail.

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

Mrs. SNOWE: Mr. President, I now offer Senate Amendment "A" (S-279) and move its adoption.

The PRESIDENT: The Senator from Androscoggin, Senator Snowe, now offers Senate Amendment "A" and moves its adoption. The Secretary will Read Senate Amendment "A".

Senate Amendment "A" Read and Adopted.

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

Sent down for concurrence.

The President laid before the Senate:

Bill, "An Act to Implement the Recommendations of the Pomeroy Commission on Medical and Hospital Malpractice Insurance." (S. P. 205) (L. D. 727)

Tabled — Earlier in the Day by Senator Speers of Kennebec

Pending — Motion of Senator Minkowsky of Androscoggin to reconsider

Passage to be Engrossed.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate, I realize how important

this piece of Legislation is to many people. I do have a few friends who are doctors, but I never realized I had so many, but in reading some of the notes I have so far I can see I made a few new friends, so far anyway.

It was interesting in the short span of time I had to try to digest this 22 page comprehensive document as to what its intended purpose was, and one thing that really astounded me a little bit, it was the first time I think I ever saw the term physician defined as it is, and for the record and for the people who may not have the document before them, a physician means any natural person authorized by law within the State of Maine to practice medicine. A natural person, well I never looked upon some of these prima donnas as natural people, believe me, not from the prices they charge anyway.

But my major concern was a letter I received this morning, which is the basic reason why this was tabled until later in Today's Session, and it was not just that this Legislation is based on a false premise. That is a very, very strong statement, a false premise that if it passes will result in a reduction in insurance premiums. But the thing that got me the most was, and I quote "it will grant even more special class privileges to medical practitioners", privileges which I believe are unnecessary, unwarranted and unfair.

Now since this Bill came out of the Judiciary Committee and was not debated at all on the Floor of the Senate, and people such as myself who are laymen and do not have a legal mind to go through all the ramifications and comprehensions of all the aspects of this particular thing, I would like to possibly for my own edification ask the Chairman of the Judiciary Committee, if he would, to give this Body, if we have ample time, a synopsis exactly what this particular thing will do, and what relationship it has with the concerns that I have just read into the record that were projected by another member of his profession.

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

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President and Members of the Senate: This Bill was sponsored by the good Senator from Cumberland, Senator Conley. I was happy to join with him, as was the Senator from Androscoggin, Senator Snowe.

I think that we were concerned greatly over the rising costs of medical malpractice, hospital malpractice insurance premiums. The availability of this type of insurance in the State of Maine is in very grave jeopardy. The Superintendent of Insurance, Mr. Hogerty, has advised our Committee that there are very few companies left which will write this kind of coverage in Maine and that he considers it imperative that something be done about it.

This Legislature recognized the problem. I think it was nearly two years ago that we started on it, and under the leadership of the Senator from Cumberland, Senator Conley, we passed an Act or an Order setting up a Blue Ribbon Commission to study this problem. The Commission included a lawyer, various types of doctors, and members of the public, and it was headed by Supreme Court Justice Charles Pomeroy, and for convenience we have often referred to this as the Pomeroy Commission Report.

I do not think that anyone who has thoroughly studied the problem can say that this enactment would guarantee that insurance rates will go down, but there are some very positive signs based on the experience in California particularly that at least insurance will remain available. I had a very plaintive call yesterday. I have to conduct my law practice on weekends now because of our work here, and one medical practitioner called me to explain that what last

year was the premium of \$2,000.00 is now a premium of \$9,000.00, and that he just did not know what to do, whether he should give up practice or abandon surgery or what.

Now this is a very serious matter, and this Commission considered all of the alternatives and held public hearings all over the State to try to explore the problem, and the key feature of this Legislation is that it sets up not only some quality control measures within the profession, but it makes possible an arbitration system for malpractice disputes that hopefully will reduce the cost of malpractice litigation.

It is the unknown, the exposure, the paper trail, the length of time from an exposure to the time that something is finally litigated and determined that is a big factor in malpractice premiums and there is encouraging evidence from other States, Virginia, North Carolina, California in particular. You cannot compare them exactly with Maine because they have different features to their Tort Liability Program. But there are encouraging signs that a grip can be made on these escalating costs.

Now these measures are voluntary. We did not think it wise to say you must have arbitration and this is the only way. We have made this consent to arbitration between patient and physician, between patient and hospital a process which the patient may or may not undertake, and if the patient undertakes it, the patient may revoke that position. There is a 60 day revocation provision now in this Bill, so that the patient has some choices that we think on the whole patients will be willing that their claim be handled through arbitration. There is evidence that arbitration is a speedier way to determine these conflicts and the promptness is a very important ingredient in the setting of rates.

I will not try to describe the entire Bill as the Senator has pointed out, it is lengthy. There is a great deal to it. I would be very happy to answer questions after the Session, or at any other time, and I am sure that other Members of the Committee would likewise be available. We hope you will ask questions. I am glad that attention is being given to this. It is true that some trial lawyers feel that this is going to reduce business in the Courts, and they quite naturally are concerned about that, and they say that until there is very positive evidence of rates going down that we should not consider it.

I just cannot look at it that way. There is not enough certainty on either side of the question to base a decision solely on that ground, but we do know that the insurance is becoming so difficult to get, and we do know that there is some positive evidence that it will remain available if we take this kind of a step to protect the availability of medical services.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from Androscoggin, Senator Minkowsky, that the Senate reconsider its action whereby this Bill was passed to be engrossed.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President, I would like to withdraw my Motion.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, now requests leave of the Senate to withdraw his Motion to reconsider Senate action whereby this Bill was passed to be engrossed. Is it the pleasure of the Senate to grant this leave? It is a vote.

Sent down for concurrence.

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

Mr. CONLEY: Mr. President, I would now move that we remove from the Table Bill, "An Act to Revise the Maine Tort Claims Act" (H. P. 1680) (L. D. 1874), and I would move engrossment.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves the Senate remove from the Tabled Later Table. L. D. 1874. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Knox, Senator Collins.

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

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

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

The PRESIDENT: A Roll Call has been requested. Will all those Senators in favor of a Roll Call, please rise in their places to be counted.

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

The Chair recognizes the Senator from Cumberland, Senator Merrill.

The PRESIDENT: The Secretary will read the history.

History of Bill Read.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from Knox, Senator Collins, that this Bill be tabled for One Legislative Day.

A yes vote will be in favor of tabling for one Legislative Day. A nay vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

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

NAY — Carpenter, Conley, Cummings, Danton, Farley, Levine, Merrill, Minkowsky, O'Leary, Pray, Speers, Usher.

ABSENT — Mangan, Martin, McNally.

17 Senators having voted in the affirmative, and 12 Senators in the negative, with 3 Senators being absent, the Motion to Table for One Legislative Day does prevail.

The President laid before the Senate:

Bill, "An Act Concerning Review of Corporate Certificates and Other Documents." (H. P. 679) (L. D. 941)

Which was tabled earlier in Today's Session by the Senator from Kennebec, Senator Pierce, pending acceptance of the Committee Report.

Ought to Pass as amended Report Accepted.

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

Committee Reports

House

Ought to Pass

The Committee on Taxation on, Bill, "An Act Concerning an Exemption from the Real Estate Transfer Tax." (H. P. 390) (L. D. 479)

Reported that the same Ought to Pass.

Comes from the House, Passed to be Engrossed as amended by House Amendment "A" (H-692).

Which Report was Read and Accepted, in concurrence.

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

Ought to Pass - As Amended

The Committee on Labor on, Bill, "An Act to Revise and Clarify Portions of the Workmen's Compensation Act." (H. P. 638) (L. D. 820)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-642).

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" and House Amendment "A" (H-693).

Which Report was Read and Accepted in concurrence.

The Bill Read Once. Committee Amendment

"A" Read and Adopted, and the Bill, as Amended, Tomorrow Assigned for Second Reading.

The Committee on Local and County Government on, Bill, "An Act to Repeal Certain Laws Relating to Local and County Government." (H. P. 1279) (L. D. 1510)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-645).

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendments "A" (H-709) and "B" (H-728) Thereto.

Which Reports was Read and Accepted in concurrence.

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

Divided Report

The Majority of the Committee on Labor on, Bill, "An Act Permitting Binding Arbitration for Public Employees in Critical Public Services." (H. P. 1317) (L. D. 1553)

Reported that the same Ought to Pass.

Signed:

Senator:

PRAY of Penobscot

Representatives:

ELIAS of Madison
McHENRY of Madawaska
LAFFIN of Westbrook
BUSTIN of Augusta
FLANAGAN of Portland
BEAULIEU of Portland

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

Signed:

Senator:

McNALLY of Hancock

Representatives:

TARR of Bridgton
PELTIER of Houlton
LEWIS of Auburn

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

Which Reports were Read

On Motion of Mr. Speers of Kennebec,
Tabled for One Legislative Day,
Pending acceptance of either Report.

Divided Report

Six members of the Committee on Labor on, Bill, "An Act to Extend the Exemption for Certain Individuals Engaged in Fishing From Coverage Under the Employment Security and Workmen's Compensation Laws. (Emergency)" (H. P. 198) (L. D. 259)

Reported in Report A that the same Ought Not to Pass.

Signed:

Senator:

PRAY of Penobscot

Representatives:

FLANAGAN of Portland
LAFFIN of Westbrook
DUTREMBLE of Biddeford
McHENRY of Madawaska
ELIAS of Madison

Six members of the same Committee on the same subject matter Reported in Report B that the same Ought to Pass as amended by Committee Amendment "A" (H-673).

Signed:

Senators:

McNALLY of Hancock
REDMOND of Somerset

Representatives:

TARR of Bridgton
PELTIER of Houlton
BUSTIN of Augusta

BEAULIEU of Portland

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-696) thereto.

Which Reports were Read.

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

Mr. PRAY: Mr. President, I Move the Senate accept Report "A", the Ought Not to Pass Report.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now moves that the Senate accept Report "A", the Ought Not to Pass Report.

On Motion of Mr. Redmond of Somerset,

Tabled for One Legislative Day, Pending the Motion of the Senator from Penobscot, Senator Pray, that the Senate accept the Ought Not to Pass Report.

(Off Record Remarks)

Senate Appointments

Committees of Conference

The PRESIDENT: The Chair will appoint on the part of the Senate several Committees of Conference:

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

The Senator from Cumberland, Senator Morrell

The Senator from Sagadahoc, Senator Chapman

The Senator from Aroostook, Senator Carpenter

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

The Senator from Aroostook, Senator Collins

The Senator from Penobscot, Senator Trozky

The Senator from Androscoggin, Senator Minkowsky

Bill, "An Act to Make Possible Property Tax Valuations Assistance to Local Officials" (S. P. 464) (L. D. 1607)

The Senator from Cumberland, Senator Jackson

The Senator from Washington, Senator Wyman

The Senator from York, Senator Farley

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