

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

1978

Second Regular Session

January 4, 1978 — April 6, 1978

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APPENDIX

SENATE

March 7, 1978

Senate called to Order by the President.

Prayer by Mr. Julius Sussman of Augusta.

Mr. SUSSMAN: Two short prayers this morning from opposite ends of the spectrum.

Lord help me be more aware of the blessings of each day, the joy of loved ones near me, the sound of children playing, the beauty of a rose bud, the smile on peoples faces, the glow of amber sunset, and the peace of quiet places. Lord help me be more aware of things that I cannot see, the peace of mind, the courage, the strength You give to me. The guidance and direction and forgiveness from above. Lord help me be more aware of Your abiding love.

A prayer for the Government from a prayer book that I used sixty or seventy years ago in my younger days.

We who have the good fortune to live under the Stars and Stripes, who are the beneficiaries of the most democratic of governments who dwell in a land of all races, creeds and colors, of earth and peace and brotherhood pray the Lord of all creation. Bestow Thy blessings, on this land of refuge and security for all people. Bring to the President, his Cabinet, and the Judiciary of the United States every benediction that free men may possess. May they under God continue to practice the principles of the founding fathers and guide us in the paths of justice and righteousness. We ask God's providence over the heads of our State and all elected personnel and for the people of principles that they serve and represent. May there be peace within Thy walls, contentment within Thy home. God grant the strength and mercy with peace. Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

Orders

An Expression of Legislative Sentiment recognizing that: the Gorham High School Girl's Basketball Team has won the State Class B Basketball Championship for the academic year 1978, (S. P. 728) (Presented by Senator Usher of Cumberland) (Cosponsored by Representative Quinn of Gorham)

Which was Read and Passed.
Sent down for concurrence.

Joint Resolution

A Joint Resolution In Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of Wilbur G. Clark of Sanford, Optometrist and community leader, (S. P. 729) (Presented by Senator Lovell of York) (Cosponsored by Representatives Paul of Sanford, Nadeau of Sanford, Wood of Sanford)

Which was Read and Adopted.
Sent down for concurrence.

Second Readers

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

House — As Amended

Bill, "An Act to Establish a Uniform Confidentiality Statute for Tax Information and to Update the Maine Income Tax Law with Respect to the Internal Revenue Code." (H. P. 1952) (L. D. 2031)

Which was Read and Second Time.

On motion of Mr. Speer of Kennebec, Tabled for One Legislative day, Pending Passage to be Engrossed.

Bill, "An Act to Amend the Maine Juvenile Code." (Emergency) (H. P. 2142) (L. D. 2163)

Which was Read a Second Time.

On Motion of Mr. Speers of Kennebec, Tabled for Two Legislative Days, pending Passage to be Engrossed.

Bill, "An Act Concerning Filing of Claims for Occupational Deafness under the Workmen's Compensation Statutes." (H. P. 1872) (L. D.

1913)

Bill, "An Act to Readjust Disbursement of the Potato Tax Fund." (H. P. 2067) (L. D. 2128)

Bill, "An Act to Require the Judicial Department to Reimburse Counties Quarterly for the Expenses of Bailiffs and Other Court and Jury Officers." (Emergency) (H. P. 2110) (L. D. 2143)

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

Bill, "An Act Relating to the State Board of Social Worker Registration." (H. P. 1936) (L. D. 2016)

Which was Read a Second Time.

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

Mr. PIERCE: Mr. President and Members of the Senate: Yesterday you will recall I presented an Amendment to this Bill to bring it in line with the Administrative Procedures Act, and it now seems that there is a future technical amendment to bring it in line with that Act which is necessary. Therefore, I now move that we reconsider our adoption of Committee Amendment "A".

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

Mr. PIERCE: Mr. President, I now move that we reconsider our adoption of Senate Amendment "A" to Committee Amendment "A".

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

Mr. PIERCE: Mr. President, I now move that we Indefinitely Postpone Senate Amendment "A".

The PRESIDENT: The Senator from Kennebec, Senator Pierce, now moves the Senate Indefinitely Postpone Senate Amendment "A" to Committee Amendment "A". Is it the pleasure of the Senate? It is a vote.

Mr. PIERCE: Mr. President, I now present Senate Amendment "B" to Committee Amendment "A" and move its Adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce now offers Senate Amendment "B" to Committee Amendment "A" and moves its Adoption.

Senate Amendment "B" (S-520) Read and Adopted.

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

Sent down for concurrence.

Senate — As Amended

Bill, "An Act Relating to the Maine State Employees Accident and Sickness or Health Insurance Plan." (S. P. 637) (L. D. 1996)

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

Enactors

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

"An Act to Expand the Elderly Low Cost Drug Program." (H. P. 1912) (L. D. 1973)

On Motion of Mr. Huber of Cumberland, placed on the Special Appropriations Table.

"An Act Amending the Maine Medical and Hospital Malpractice Joint Underwriting Association Act." (S. P. 638) (L. D. 1997)

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

"An Act Relating to Trafficking and Importing of Marijuana." (H. P. 1999) (L. D. 2080)

Which were Passed to be Enacted and having been signed by the President, were by the Sec-

retary presented to the Governor for his approval.

"An Act to Revise the Administration and Toll System of the Maine Turnpike." (H. P. 2132) (L. D. 2157)

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

Mr. FARLEY: Mr. President and Members of the Senate: In the early 1940's when the Maine Turnpike Authority was created, it stated that when the Bond Issues were paid that it would revert to a toll free road. The presence of the Maine Turnpike prohibited construction of any major new roads in southern Maine. Gasoline taxes from taxpayers in southern Maine were diverted to other locations in Maine. Now the bonds are paid, and I am requesting the Legislature keep its word.

Last summer I had the opportunity to travel in Northern Maine on Interstate 95. A beautiful piece of highway in the middle of Augusta with very, very little traffic. I returned the next morning on Route 2, which is referred to as the Hainsville Road, a popular ballad a few years ago written about the lack of travel and the darkness of that road and I assure you that the gentleman was right. I travelled 40 miles with a former member of this Body before on a Sunday morning at 10:00 o'clock before we made any contact with any travel going south. Three cars going north. It is amazing to me that how the Department of Transportation can in that same stretch of road are now constructing a two lane, four lane divided highway. Two additional lanes are being constructed there. The cost they claim is \$1,000,000. a mile to build roads today, but they claim under 90 — 10 money that it is only costing the state a \$100,000. a mile.

We have the opportunity here this morning to buy roads at about \$40,000. a mile. I would hope that you would use a little economic common sense when we vote on this this morning. Certainly there is a much larger traffic problem in southern Maine than there is on the Hainsville Road. The only comparison that I can use is the story about the man who drops the quarter in the darker section of the street and he goes 200 feet up the road under a lamp-post to look for the quarter.

Opponents claim that the tolls on the Maine Turnpike are necessary to maintain the road. Then why not adopt that same policy on every other major piece of highway in the State of Maine. What we are in fact saying is that the taxpayers in southern Maine should pay for the maintenance of their own road and at the same time pay for the maintenance of the rest of the roads in the State of Maine. If this same philosophy was on every piece of legislation that entered this Hall we would be here year round. But we have not done this.

When Aroostook County had their problems, economic problems at Loring with the Limestone Air Force Base, everyone of us here supported it. When Martin Marietta had problems, we supported them with a nice tax rack. Sobin Chemical, the same way. I request you people to treat us in southern Maine the same way. We have been paying for years. All we have is as was referred to by the Senator from Cumberland, Senator Morrell and Senator Merrill the other day, is Hamburger Alley. Nine miles from Scarborough to Biddeford, you have twelve sets of signal lights, seven changes in speeds. The Senator from Androscoggin, Senator Minkowsky said yesterday, well, we have to go 30 miles from Lewiston to Portland. We have to go through Gray or we have to go the turnpike. He talked about the road. We will start at the same place, let him go 30 miles to Portland from Lewiston and I will go 30 miles south from Scarborough. I assure you he will get there half an hour to 35 minutes faster than I will.

Mr. President, when the vote is taken, I ask for the Yeas and Nays and request Indefinite Postponement of this Bill and all its accompa-

nying papers.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: It is not my intention this morning to use buzz words to justify my position. We all have been subjected to a lot of innuendos and rumors about what the Turnpike Bill does. I would like to take just a minute or so to explain the facts regarding the particular measure.

Your Committee on Transportation has spent many long hours in hearings and discussions relevant to this critical matter. Three or four things became very clear to the Transportation Committee, and I am talking about maybe a year and a halves work. 1. There is almost complete agreement that tolls should continue on the Turnpike.

2. It would keep the present system of those in the corridor would be unreasonably discriminated against.

3. If we delay any decision any longer on this vital issue we run the risk of imposing an unnecessary tax burden on Maine citizens by default. And that is exactly what the opponents wish that would happen this morning.

4. On the other hand, we do not have to decide the exact location of the toll barriers only and the toll schedule until the 1980's when the best facts then will be known.

For these reasons, Mr. President and Members of the Senate, the Committee has unanimously reported to you a Bill that makes a policy decision now. And I stress the word, a policy decision now to avoid any tax by default. This decision merely says that we will continue tolls, transfer the administration of the Turnpike to the Department of Transportation, and convert to a limited barrier system when enough dollars become available. The Legislature retains the right to approve the number and location of the barriers and the specific toll schedule, as was offered by Senator Danton in his Amendment.

It is time for this Legislature to do what is right on this Bill. I urge to commit you as Members of the Body to vote with the Committee on Transportation at this time against the Indefinite Postponement of this Measure.

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

Mr. HICHENS: Mr. President and Members of the Senate: My heart was deeply touched by the plea of the good Senator from York County, in which he describes the poor people of York County, but I do not know just what group he was pleading for. I am the Senator from the first district, and I have not had one person in my district who has written me, called me, or spoken to me on the street and asked me to vote to take the tolls off the Maine Turnpike. Not one person. On the other hand, a week or so ago it was my privilege to accompany one of our gubernatorial candidates to a meeting in Wells. He made the statement in answer to a question about the Turnpikes that he believed that the York County delegation were all in favor of doing away with the tolls. And almost to a person they all rose up on their feet and protested that we take the tolls off the turnpike. I do not believe all of York County people want the tolls taken off, and I believe as I vote this morning for this Bill that I represent my people.

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

Mr. LOVELL: Mr. President and Members of the Senate: As State Senator from District Three, Ladies and Gentlemen of the Senate, I feel somewhat similar to Senator Hichens from York, but I think that the biggest thing in my mind is that the Maine Turnpike at the present time is taking in \$13,000,000, and it costs \$5,000,000, a year to maintain the Turnpike. Now if we take off tolls, we are going to have to put up \$5,000,000, a year to maintain the Turnpike and

that is going to mean an extra cent in gasoline tax. Not only that, but we are going to lose another \$8,000,000. I want to see the turnpike stay as it is, and the extra \$8,000,000, above the cost of the turnpike not counting the \$5,000,000, for maintenance and the 300 or 400 people that work there who will hold their jobs, I do not even want to see any barriers up, I want to see the turnpike stay as it is. Because we can afford to pay that small fee, that they charge to go from Sanford to Portland or Biddeford to Portland, and in my opinion as one of the Senators from York County, I think that we should keep the turnpike just as it is and I am definitely against indefinite postponement of this Bill.

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

Mr. DANTON: Mr. President and Members of the Senate: I reluctantly rise to speak on this turnpike issue again. But I can not allow my seatmate or my fellow Senator from York County to go at it alone.

One Senator from York County, Senator Hichens, says that he has never heard one person complain about the tolls, that is not too hard for me to believe, because I sometimes think that the good Senator Lovell from York, talks about \$13,000,000, and the Maine Turnpike Authority, and this Bill does away with the Maine Turnpike Authority and then he goes on to say about a one cent increase in the gasoline tax. I do not know, that may be so, but that is looking down the road. Now the good Senator from Androscoggin Senator Minkowsky talks about the many long hours that the Committee worked on this Bill and I can only say to him that all those long hours of work really have not produced anything new from what it produced last year without any work at all.

Now when the Transportation Committee wanted additional money from the Legislative Council to have further hearings on the turnpike proposal, it was I who made the motion at that time for the Committee to come to York County to have a hearing. Either in the Biddeford or the Saco area. Other than that, they would have forgotten about York County completely. Now no one is opposed to tolls and no one is opposed to no tolls, at least I am not, and I am sure that my good seatmate here has been willing to bend and allow for some collection of tolls on that road, but what we have done with this Bill now is we have made it strictly a political issue. Now these tolls will be determined after the Bonds are paid off in 1981 and I can assure you this, not knowing who will be in that corner office, but that is where the decision will be made where the tolls will be placed, instead of the Maine Legislature doing it. I am sure of that. I have been up here a few semesters now and I can put things a little bit better together than I could when I first came up here and I am sure whoever the governor is at that time, will make a determination as to where the tolls will be. Not the Legislature. He will tell his Commissioner where he wants those tolls.

And my good seatmate, Senator Farley, stated earlier that York County Senators and Representatives voted to help Martin Marieta, Sobin Chemical, Bangor International Airport. All his motion says to kill this Bill, leave it as it is and come back at the next session of the Legislature and see what can be done at that time. I am going to support his motion.

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

Mr. FARLEY: Mr. President and Members of the Senate: I do not want to get into any harsh debate on this particular piece of Legislation. I think that you know what my feelings are. But in response to the good Senator from York, Senator Hichens, and the good Senator from York, Senator Lovell, I think that it is commonly known to all of us just a few weeks ago we debated something that was very, very dear to them, that was the sales tax on advertising in York County. The fact that both of

their constituents do not do their major shopping in the greater Portland area like we do in the Biddeford-Saco area, they go to the Newington Mall in New Hampshire, for Senator Hichens it is merely a matter of crossing the bridge. For Senator Lovell, it is a few miles drive over Mount Hope and then about twelve beautiful miles to the Stalling Turnpike. Am I not correct Senator Lovell? So what they are saying, their problem is not the same as ours in the Biddeford-Saco area. Senator Lovell is 11 miles up the road to the nearest entrance to the Maine Turnpike, from the Biddeford entrance, I am sorry. He is about 9 miles from the Wells-Sanford exit. Senator Hichens the traffic problem of the major industry there is the Kittery Navy Yard. I would ask you all to respect all the beautiful ramps and roads so that they do not have any congestion in Portsmouth. You come to Biddeford and Saco at that same time you have Maremount Corporation, you have West Point-Pepperell Inc, Biddeford-Textile Saco Tanny, two or three other shoe shops. A lot of that traffic could be diverted. Maremount Corporation go half a mile up the road, jump on the Maine Turnpike and travel into Biddeford no problem, but it is an insult to ask them to pay fifteen cents to go a mile and a half. The Bill the way it is will solve that problem but it is not going to solve our problem if we decide to go to Portland, because there is not one piece of evidence shown to me by the Department of Transportation Committee that fairs that that barrier is going to be put north of exit 6-A. Every plan I have seen, that barrier is right there at Scarborough. In fact, as I stated the other day, you read this Bill closely. There is nothing in that Bill right now that says that the Commissioner of Transportation if we do not make a decision on the location of the barriers and that seems to be our hang up, that he has to close any of the present toll barriers until he thinks they ought to be closed. It is his decision altogether not the legislature. Once we get hung-up on where the toll booths are and cannot agree, then the Commissioner of the Department of Transportation can put those barriers anywhere he wants to and he can keep its existing toll gates open if he wants to also.

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

Mr. MINKOWSKY: Mr. President, not to get into further discussion with my very good friend Senator Farley, he is wrong in both his evaluations in so far as this measure is concerned and even Senator Danton's amendment addressed the situation as to the Legislature making its decision relative to what the tolls will be and I gave that full consideration and the entire Committee did and we had no objection when this Bill came in to amend it.

The Commissioner of Transportation is not looking for parliament powers. He is looking to address a very serious problem here in the State of Maine, and this is all relevant to the interest of our rank and file people and also it is relevant to the people who are presently working on the turnpike fifteen or twenty years whose jobs are at stake and this is one major factor as a policy decision that this Committee on Transportation took into consideration. That we would not be jeopardizing their jobs, that they would be given some alternative and this is another reason why we decided to keep tolls on at a reduced rate. Under the proposed schedule and this is only tentative we could run the entire system of the turnpike for about \$1.05 with the barrier system. I just do not understand Mr. President, the animosity that has been displayed this morning relevant to this particular matter. The toll facilities and this is why we are asking for more lead time to address this in 1980 so that the incoming Legislature then can have sufficient facts to make a logical and intelligent decision. And this is what it is all about. Enough time to address every serious problem, and this also will take

some consideration what the federal payback will be if anything at all and this takes an Act of Congress. You do not accomplish this in 8 to 10 months. It takes a long time and that is all we are asking for in this measure as a policy decision this morning that you give us ample time to work this out with Congress so that the State of Maine will not be assessed the maximum \$10,000,000. estimated amount, in this particular proposal. I certainly would hope Mr. President and Members of the Senate that you do vote against the Motion to Indefinitely Postpone this particular matter.

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

Mr. LOVELL: Mr. President, I would just like to ask one question from the Transportation Committee. How much of the tolls on the Maine Turnpike are paid by out-of-state people, what percentage?

The PRESIDENT: The Senator from York, Senator Lovell, has posed a question through the Chair.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President, as of last week it was my understanding that Maine users paid 50 percent of the tolls and the out-of-state guests and other users who use the turnpike under the volume discount rate pay the other 50 percent. If the turnpike was to go toll free, the taxpayers of the State of Maine at the present time would pick up a minimum of 83 percent of the cost of that particular operation and that is a low figure.

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

Mr. GREILEY: Mr. President and Members of the Senate: I hesitate to rise to speak on any Bill but I guess that my blood is beginning to circulate a little so I thought that I would get up and say a few words.

The Transportation Committee was directed to come out with some kind of a Bill, and it was not too many days ago the way I understood it this was a good Bill. And after the Amendment was accepted by the members of this Senate, as it was offered by the Senator from York, Senator Danton, I thought that it was a better Bill. It is true that we did have a hearing down in the City of Saco and there were not very many people there that I listened to that wanted to keep the tolls on the turnpike.

One of the best presentations, I think, is that of a gentleman from Saco. He made a good presentation. Afterwards I received a letter from this Gentleman, and it said, "Dear Senator Greeley:

Re: Maine Turnpike

I'm writing in favor of retaining the present toll system on the turnpike as opposed to the proposed changes. Out-of-state cars pay a hefty proportion of the revenue received. This is money that could be spent on widening the pike from Portland to the south. Why should Maine residents foot the whole bill through taxes?

P.S. At your recent meeting at the Saco City Hall, only the politicians demanded a reduction of the turnpike fares. All private citizens advocated leaving the situation as it is."

It seems to me that that speaks for itself.

The PRESIDENT: Is the Senate ready for the question? A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those 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 York, Senator Farley, that L. D. 2157 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, Danton, Farley, Levine, Snowe

NAY — Collins, D.; Collins, S.; Cummings, Curtis, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Lovell, Mangan, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Speers, Trotzky, Usher, Wyman

ABSENT — Martin

7 Senators having voted in the affirmative and 24 Senators in the negative, with 1 Senator being absent, the Motion to Indefinitely Postpone does not prevail.

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

Emergency

"An Act to Establish Standards to Protect Maine Consumers Against Unsafe and Improperly Manufactured Cellulose Fiber Insulation." (H. P. 1998) (L. D. 2079)

This being an emergency measure and having received the affirmative votes of 29 Members of the Senate, was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Emergency

"An Act Clarifying the Definition of State Employee under the State Employees Labor Relations Act so as to Exclude Certain Attorneys Employed by the Attorney General's Office." (H. P. 1940) (L. D. 2020)

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

Mr. PRAY: Mr. President and Members of the Senate: I move the Indefinite Postponement of this Bill and all its accompanying papers.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now moves the indefinite postponement of L. D. 2020.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: I understand that this Bill was introduced to clarify a particular situation as to whether or not the Assistant Attorney General in the Attorney General's Office were to be included under this State Employees Collective Bargaining Act. I would ask any member of the Labor Committee as to whether this item is in fact needed for clarification purposes, and if not, why not.

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

The Chair recognizes the Senator from Hancock, Senator McNally.

Mr. McNALLY: Mr. President and Members of the Senate: This is a case where we were hearing on a Bill which was presented to clear up the tax of what was needed to be included among those considered to be able to join a union and this was testified to that the attorneys that were hired by the Attorneys General had a caucus and had decided that they did not want to be represented as being able to join a union or make negotiations of any kind, that their jobs were only sort of temporary, it was just something for them to fill in and give them experience and then they took off for other places and other things more profitable.

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

Mr. PRAY: Mr. President and Members of the Senate: I basically disagree with the two previous speakers and one, I do not believe that the L. D. was put into the legislative process to clarify. The original collective bargaining law that was passed included these people. They knowingly were included so there is no need to clarify. Perhaps to exempt or to remove would be a better terminology to use.

There were two factions that appeared before the Labor Committee. One which did not want to be included and those that wanted to be included. Both sides had agreed that if they were going to be left within the process for the Collective Bargaining Process, they would prefer the alternative which was the Minority Report of the Committee which they form their own separate unit and at that point if they wanted no representation then they could vote so. The Senate turned that one down and the measure that we have before us at this time, and I believe that not all of the members of the Attorney General's office are those who are just here for a short period of time to gain some experience and then to move on. We had some individuals testify before the Committee that want to become public servants and serve in that office in that capacity as long as they are able to. And for those reasons that they wish to be included under the Collective Bargaining Law.

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

Mr. McNALLY: Mr. President, once again I will read to you a letter which was written to the Honorable William Garsoe, Assistant House Minority Leader at the State Capital. And it says, "In response to your request, 14 states have collective bargaining laws for assistant attorney generals. These states include, all of New England, New York, New Jersey, Pennsylvania, Michigan, Indiana, Ohio, Wisconsin, Montana, and Minnesota.

Assistant Attorneys General participate in collective bargaining in only one of these states, Wisconsin, Wisconsin Assistant Attorney General are part of the Civil Service System and are not appointed at the pleasure of the Attorney General."

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

Mr. SPEERS: Mr. President, perhaps the good Senator from Penobscot, Senator Pray, if he were amenable to having the assistant attorneys general appointed for a longer period of time might better address that question. By addressing the system of appointment of assistant attorneys general rather than within the entire question of the collective bargaining law. The assistant attorneys general in the State of Maine are unclassified employees. They are appointed by the Attorney General and if we wanted to change that system to have career attorneys general or career staff attorneys within the Attorney General Department, then that should be addressed directly in a Bill designed specifically to address that question alone. I do not think that that question is the question that ought to be addressed by this particular law.

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

Mr. PRAY: Mr. President, I would like to point out to the Senator from Kennebec; though he has a right to vote any way that he wishes on this matter, that he did previously vote to include these individuals when we passed the original law.

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

Mr. CONLEY: Mr. President and Members of the Senate: This is an emergency measure before us today and although I am inclined to support the Collective Bargaining Statute that we have, as I have stated before with respect to the Attorney General's Office, it appears to me that all these individuals served at the pleasure of the Attorney General. This state has made a history of continuing those employed within that division on a non-partisan or by-partisan spirit and it just seems to me that today, or I should say a few years ago, I think that the state had difficulty in hiring good qualified attorneys. I do not think that is necessarily so today. We have had some very able individuals within the Attorney General's Department over the last several years because of the fact

that we recognized that in order to compete with the outside law firms who can hire the most talented individuals around the state and from out of state to serve in these firms was very uncompetitive in a way to be bringing the attorneys from the outside generally from the law school and using the Attorney General's Department as a sort of a training ground.

Today we have some, as I stated, excellent individuals, very talented people, and I oppose, certainly would oppose, any move to Indefinite Postponement of this Bill. I would encourage the Senate to support it, to enact it. I just have difficulty in my own mind as to seeing attorneys who presently within the Attorney General's Department who apply that today the qualifications and the background is a number of attorneys that apply for these positions greatly different today as it has been in the past.

It just seems to me to start a union within the Attorney General's Department is not in the best interest of the state and therefore, I would hope that the Senate would vote to enact this Bill today.

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

Mr. PRAY: Mr. President, I would just like to point out to the Minority Floor Leader that we are not forming or starting a committee within the Attorney General's Office, it presently exists.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Pray, that L. D. 2020 be Indefinitely Postponed.

The Chair will order a Division.

Will all those Senators in favor of Indefinite Postponement please rise in their places to be counted.

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

2 Senators having voted in the affirmative and 21 Senators in the negative, the motion to indefinitely postpone does not prevail.

This being an emergency measure and having received the affirmative votes of 24 members of the Senate, with voting in the negative, was Passed to be Enacted, and having been signed by the President was by the Secretary presented to the Governor for his approval.

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

Mr. MINKOWSKY: Mr. President, relevant to "An Act to Revise the Administration and Toll System of the Maine Turnpike." (H. P. 2132) (L. D. 2157)

I now move that the Senate reconsider its action request that the Senate vote against me.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, now moves that the Senate reconsider its action whereby it Enacted L. D. 2157.

Will all those Senators in favor of reconsideration please say yes.

Will all those opposed please say no.

A Viva Voce Vote being had,

The motion to reconsider does not prevail.

Emergency

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Oxford County for the Year 1978. (H. P. 2105) (L. D. 2142)

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Piscataquis County for the Year 1978. (H. P. 2141) (L. D. 2162)

These being emergency measures and having received the affirmative votes of 27 members of the Senate, were Finally Passed and having been signed by the President, were by the Secretary presented to the Governor for his approval.

RESOLVE: Reimbursing Certain Municipal-

ities on Account of Taxes Lost Due to Lands being Classified under the Tree Growth Tax Law. (H. P. 2014) (L. D. 2089)

On Motion of Mr. Huber of Cumberland, placed on the Special Appropriations Table.

Orders of the Day

The President laid before the Senate:

Bill, "An Act to Improve the Short-term Investment Capabilities and Debt Management of the State." (H. P. 1975) (L. D. 2061)

Tabled — March 3, 1978 by Senator Speers of Kennebec

Pending — Motion of Senator Collins of Aroostook to Indefinitely Postpone Senate Amendment "A" (S-505) to Committee Amendment "A" (H-1098)

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

Mrs. SNOWE: Mr. President and Members of the Senate, I would request a division for the indefinite postponement of Senate Amendment "A" and urge you to vote to indefinitely postpone this Amendment.

The PRESIDENT: A division has been requested.

Will all those Senators in favor of Indefinite Postponement please rise in their places to be counted.

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

23 Senators having voted in the affirmative and 4 Senators in the negative, the Motion to Indefinitely Postpone does prevail.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: I now move that Committee Amendment "A" be Indefinitely Postponed and I would speak to my Motion.

The PRESIDENT: The Senator from York, Senator Hichens, now moves the Indefinite Postponement of Committee Amendment "A".

The Senator has the Floor.

Mr. HICHENS: Mr. President and Members of the Senate: I want you to take a good look at Committee Amendment "A" to Legislative Document 2061. I understand that this amendment was discussed and agreed to at a meeting outside of the legislative body by a special interest group that want to have control of the Treasurer of the State's Office.

You should kill this amendment and give your Treasurer L. D. 2061 without any amendment. He wants this Bill for better operation within his department. I ask you to put faith in your State Treasurer. Give him a free hand and let him and his staff run the Treasury Department without special interest interference. If you pass Committee Amendment "A" to L. D. 2061 you will transfer his control and responsibility to outside special interest groups and that we do not need in Maine.

It would be nice to have the Treasurer issue annual reports to the legislature spelling out where he has the money invested and the amount of revenue received on state, county, and municipal funds generated by Treasurer of State Cash Pool Program.

If the State Treasurer had wanted restrictions embodied in the Bill, I am sure that he would have included the whole or in part what is written in Committee Amendment "A" if he felt that it was needed.

Let us keep control of the Treasurer's office where we can help him operate his office at a high level as it has been in the past regardless of political affiliations.

I would ask for a Roll Call.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Aroostook, Senator Collins.

Mr. COLLINS: Mr. President, I think that we discussed this Bill in some detail the other day. The Committee Amendment is essentially the Bill in its present form, and it is, incidentally, supported by the Treasurer. It really provides for an extremely conservative approach to

management of short-term funds that the Treasurer has in his care and custody. And it continues, as I indicated the other day, the policy of investment in certificates of deposits, bankers acceptances and commercial paper.

It further restricts the activity of the Treasurer in his investment procedures, because it limits the amount of money that he can put in commercial paper and in bankers acceptances and essentially it delineated a very conservative fiscal approach to management of the state's money.

The other parts of the Bill as I indicated before provide some additional safeguards. It increases the bond of the Treasurer and it permits municipalities if they so desire to participate in an investment pool that would be managed by the Treasurer. It also provides for a bond to protect the municipalities interest in this particular area and further it provides that the Treasurer will serve in an ex officio capacity on certain boards that issue debts, and the entire attempt is to make the credit standing of the State of Maine a better one and to direct the Treasurer in a manner where the law is not entirely clear as to the best method of investing money.

Now, there is no special interests that has been involved. This is a committee effort. We did have the advice as we always do of all the groups that wish to say something at public hearings and at work sessions and this is true with the procedure of all the Committee work that I am aware of that goes on in State Government. So that I hope that you would vote against the motion to indefinitely postpone the Committee Amendment.

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

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

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

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President I would like to ask a question to anybody that might have the answer and would be able to respond as to my inquiry as to whether or not there is anything in the motion before us, the Bill as it is amended, or might be proposed to be amended that would change the make up of the Maine State Retirement System, in particular, the Board of Trustees of that system.

The PRESIDENT: The Senator from Penobscot, Senator Curtis, has posed a question through the Chair.

The Chair recognizes the Senator from Aroostook, Senator Collins.

Mr. COLLINS: Mr. President, there is a provision in this Bill which does provide that the Treasurer would serve as ex officio on three additional agencies. One being the Housing Authority, the Health Facilities Authority, and the Retirement System.

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

Mr. SPEERS: Mr. President, may I ask a further question as to whether or not those provisions are contained in the Committee Amendment or within the Bill itself?

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

The Chair recognizes the Senator from Aroostook, Senator Collins.

Mr. COLLINS: Those are in the Bill, in Sections 4, 5, and 6.

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

Mr. COLLINS: Mr. President, the amendment that I will offer deals with the retirement system addition and will be dealt with separately after we have disposed of the Committee Amendment. The Committee Amendment does

not touch the point that was covered in the amendment that I will offer. So if you vote for the Committee Amendment you will not be dealing with that subject because the Committee Amendment does not touch that.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from York, Senator Hichens, to indefinitely Postpone Committee Amendment "A".

A yes vote will be in favor of the Indefinite Postponement of Committee Amendment "A". A nay vote will be opposed.

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

ROLL CALL

YEA — Hewes, Hichens, Jackson, Mangan, McNally, Usher, Wyman.

NAY — Carpenter, Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Huber, Katz, Levine, Lovell, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trozky.

ABSENT — Martin, Merrill.

7 Senators having voted in the affirmative, and 23 Senators in the negative, with 2 Senators being absent, the Motion to Indefinitely Postpone does not prevail.

Committee Amendment "A" Adopted.

Under suspension of the rules, the Bill Read a Second Time.

The Chair understands that the Senator from Knox, Senator Collins, now offers Senate Amendment "A" to L. D. 2061 and moves its adoption. The secretary will Read Senate Amendment "A".

Senate Amendment "A" (S-517) Read and Adopted.

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

The President laid before the Senate:

Bill, "An Act to Revise the Laws Concerning Marine Resources." (H. P. 2146) (L. D. 2166) Tabled — March 6, 1978 by Senator Farley of York.

Pending — Adoption of House Amendment "A" (H-1113) to House Amendment "A" (H-1112).

House Amendment "A" to House Amendment "A" Adopted.

House Amendment "A", as amended, Adopted.

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

The President laid before the Senate:

Senate Report — From the Committee on Taxation — Bill, "An Act Exempting Electricity from Taxation under the Sales and Use Tax Law." (S. P. 635) (L. D. 1994) Leave to Withdraw.

Tabled — March 6, 1978 by Senator Speers of Kennebec

Pending — Acceptance of Report.

On Motion of Mr. Speers of Kennebec, Retabled.

All matters previously acted upon were ordered sent forthwith.

(Off Record Remarks)

On Motion of Mr. Huber of Cumberland, Recessed until 4:00 o'clock in the afternoon.

Recess

After Recess

Senate called to order by the President.

(Off Record Remarks)

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

Papers from the House

Non-concurrent Matter

RESOLUTION: Proposing an Amendment to the Constitution to Grant to the Supreme Judicial Court the Power to Remove a Judicial Officer from Office. (H. P. 1886) (L. D. 1943)

In the Senate, February 28, 1978, Passed to be Engrossed, in concurrence.

Comes from the House, Passed to be Engrossed as amended by House Amendment "B" (H-1123) in non-concurrence.

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

Mr. COLLINS: Mr. President, as this matter comes back to us it is not in the posture that I hoped that it might be. But as with any matter, there are political realities to be dealt with and the two-thirds vote required in both branches of the legislature in order to achieve the basic objective of improving our discipline of judges. In discussing this matter extensively this afternoon with members of the Judiciary Committee and with members of the Senate, with Representatives of the Judicial Council that worked on this matter through the summer, we have had to do a great deal of soul searching to try to decide whether to in a practical sense have nothing happen in this area at this session of the legislature or to see whether this amended version would achieve the necessary two-thirds vote.

The change that is before us strikes out the words "or by rule of court" from the Constitutional Amendment and substitutes the words "or in the absence of statute by rule of court."

Last week we enacted in both branches and sent to the Governor a statute which is essentially an enabling act inviting the Court, by rule, to set up a committee which would investigate, hear complaints, and make recommendations to Supreme Judicial Court concerning removal. The Court supplied the Legislature with a draft of its proposed rules and this proposal was on all our desks last week and I am sure that many of you have read it. You recall that it features a seven member committee, with two of those seven being from lower branches of the Judicial System and five members being selected on nomination of the Governor, three being non-professional and two being lawyers. That committee would do the investigating, hear complaints in confidential sessions, and then if it found reason to proceed would bring proceedings before the Supreme Judicial Court which if we grant that Court the power, would have power of removal.

This power of removal would be a new feature of our government. It would not replace impeachment, it would not replace address by both branches of Legislature. It is quite clear that this amended version would retain in the legislative branch of government the greater strength as it now has.

It would by my personal preference that we grant a little more power to the Court than is envisioned in this posture, but I have decided to subdue my personal preference in this matter and to join in the thinking of those who feel that we ought to accept this particular rewording and, therefore, I would move that the Senate Recede and Concur with the House.

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

Mr. MERRILL: Mr. President and Members of the Senate: I would like to speak in favor of the Motion to Recede and Concur. I would say that my do so may be from the opposite concern than the Senator from Knox, Senator Collins.

This Amendment that is now before us, if we accept the change as it comes from the other Body does the minimum in this Bill, in this Resolve, to make it in a position where I can support it. This is a measure, I think, of extraordinary importance. It effects the balance of power between the Executive, Legislative, and Judicial branch. It is a extraordinary power to remove a judge.

Judges are protected in our Constitution and they are protected by our traditions, such that they are appointed for long terms compared to other appointments in the state and there is a tradition that they are reappointed almost as a matter of form. Both the Constitution and this tradition recognize the importance that judges feel free from any sort of concern when they sit on the Bench. Unless one ascribes to the notion that people who sit on the Supreme Court are not vulnerable to human pressures under any circumstances at any time and then one has to recognize that we are putting in the hands of the Judiciary by giving them the powers to remove. The power to bring this sort of coercion to bear on other members of the Judiciary. That is the fact. It is undisputable. We can dispute that it may never happen, but the power is there and people who take a judicial appointment and leave their law practice behind unless they are people of independent means are certainly vulnerable to a great deal of concern about that position being lost. Judges oftentimes are asked to make decisions that are unpopular in doing their duty as they see it and interpreting the Constitution and the laws.

So we are handing to the Judiciary either directly through this Amendment or indirectly even if was limited by the legislative action that we would take to follow an extraordinary power. A power which we have been very careful in the way that we give it to anybody. If there is anything that testifies for the present system, it is how little the impeachment process has been used. In the process of recalling judges or attempting to impeach judges, there will be the process of judges starting to think of that as a concern and difficult and political matter.

So this goes just one small step to answer the concerns on the part of us that are concerned about this new extraordinary power which we are going to hand on to the Judiciary. Understanding that this power far exceeds what could potentially far exceed the power that we ourselves have had in the past in regards to the Judiciary when viewed in context in which the impeachment process and the trial process that follows it has taken place. It is extremely difficult and it is known to be extremely difficult to impeach and to try and convict through the legislative process. So we are making this extraordinary delegation of power and with the amendment that is offered by the House, there is at least resolved the question of ultimately who can draw the circle around these powers, and that is resolved on the side of the Legislature as they deem to act, if they do not, then it is left to the Judiciary.

Now I can support this Constitutional Amendment in this framework. I do it with some reservations and some concern, but without this, I am certain that this Constitutional Resolve would be doomed and it ought to be every member before they vote on this finally ought to give this some long and careful thought. The independence of the Judiciary and the independence of each person who sits on the Judiciary is too important for us to just vote away here on some willingness not to pay any attention and to vote on the basis of party or anything of that kind. This is an extremely important resolve. The people who framed the Constitution of the United States spent as much time arguing about the separation of powers with regards to the Judiciary as about any other time and it certainly is worthy of our long consideration.

I will support the Motion to Recede and Concur and if it stays in this form, I will vote for enactment. This is an important matter, and I think that every Senator should give it his careful attention.

The PRESIDENT: Is it now the pleasure of the Senate to Recede and Concur with the House? It is a vote.

Non-concurrent Matter

Bill, "An Act to Amend the Charitable Solicitations Act to Change the Responsibilities of Religious and Small Organizations. (Emergency) (H. P. 2015) (L. D. 2090)

In the House, February 28, 1978, Passed to be Engrossed as amended by Committee Amendment "A" (H-1100).

In the Senate, March 6, 1978, Passed to be Engrossed as amended by Committee Amendment "A" and Senate Amendment "A" (S-512), in non-concurrence.

Comes from the House, that Body having Adhered.

On Motion of Mr. Pierce of Kennebec, the Senate voted to Adhere.

(See action later today)

Non-concurrent Matter

Joint Resolution Expressing Opposition to the Killing of Harp Seals. (H. P. 2178)

In the House, March 6, 1978, Read and Adopted.

In the Senate, March 6, 1978, Indefinitely Postponed in non-concurrence.

Comes from the House, that Body having Adhered.

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

Mr. HEWES: Mr. President, I move that we Adhere.

The PRESIDENT: The Senator from Cumberland, Senator Hewes, now moves that the Senate Adhere.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: I move that the Senate Recede and Concur.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate Recede and Concur.

The Chair recognizes the Senator from Cumberland, Senator Hewes.

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

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion to Recede and Concur please rise in their places to be counted.

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

6 Senators having voted in the affirmative and 16 Senators in the negative, the Motion to Recede and Concur does not prevail.

The Senate voted to Adhere.

Joint Orders

Expressions of Legislative Sentiment recognizing that:

Mabel Chandler of Dexter, a retired school teacher whose husband served as a member of the Legislature in 1921-22 representing Dover, will celebrate the 100th anniversary of her birth on March 22, 1978, (H. P. 2189)

Fred Keyte has completed fifty-nine years of service with the Dexter Fire Department and forty-five years with the Dexter Police Department, (H. P. 2188)

Police Chief Harold B. Knox, former President of the Maine Chiefs of Police and board member of the New England Chiefs of Police Association, is retiring from the Dexter Police Department after 31 years of dedicated service, (H. P. 2190)

The Golden Bucks of Bucksport High School, coached by Gerry Kane, have won the State Class B Boys' Basketball Championship for the academic year 1978, (H. P. 2186)

Come from the House, Read and Passed.

Which were Read and Passed in concurrence.

Joint Resolution

A Joint Resolution In Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of Matthew W. McManus of Washburn, who led a devout and exemplary life of service to his fellow men and

women, (H. P. 2187)

Comes from the House, Read and Adopted.

Which was Read and Adopted in concurrence.

Orders

Expressions of Legislative Sentiment recognizing that: the Jay High School Tigers are the State of Maine Class C Boys' Basketball Champions for 1978, (S. P. 730) is presented by Senator O'Leary of Oxford, Cosponsored by Representative Maxwell of Jay.

The Greenville High School Girls' Basketball Team has won the State of Maine Class D Championship for 1978, (S. P. 731) is presented by Senator Pray of Penobscot, Cosponsored by Representative Masterman of Milo.

Which were Read and Passed.

Sent down for concurrence.

Committee Reports

House

Leave to Withdraw

The Committee on Taxation on, Bill "An Act to Provide for a 2 Percent Income Tax Credit for Taxable Years Ending in 1978." (H. P. 1891) (L. D. 1948)

Reports that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Report was Read.

On Motion of Mr. Jackson of Cumberland, Tabled, pending Acceptance of the Committee Report.

Divided Report

The Majority of the Committee on Energy, on,

Bill, an "An Act to Require the Licensing of Insulation Installers. (H. P. 1941) (L. D. 2105)

Reports that the same Ought to Pass as amended by Committee Amendment "A" (H-1115).

Signed:

Senator:

FARLEY of York

Representatives:

TRAFTON of Auburn

HUBER of Falmouth

DAVIES of Orono

TORREY of Poland

CONNOLLY of Portland

JENSEN of Portland

HOWE of South Portland

BOUDREAU of Waterville

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

Signed:

Sensors:

REDMOND of Somerset

Representatives:

RIDEOUT of Mapleton

BROWN of Bethel

Comes from the House, Passed to be Engrossed as Amended by Committee Amendment "A" as amended by House Amendment "A" (H-1125) thereto.

Which Reports were Read.

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

Mr. CONLEY: Mr. President, I move that the Majority Ought to Pass Report be Accepted.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate accept the Majority Ought to Pass, as amended, Report of the Committee.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President, I move the indefinite postponement of L. D. 2105 and all its accompanying papers.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now moves that L. D. 2105 and all its accompanying papers be Indefinitely Postponed.

The Chair recognizes the Senator from York,

Senator Farley.

Mr. FARLEY: Mr. President, I request a Division on the Motion.

Mr. President and Members of the Senate: Those of you who are reading the Bill I wish you would refer to the Committee Amendment which is now the Bill. It merely says that those people who install insulation that there are some guidelines written into the contract the license provision is gone. Both of the more reputable contractors in the state do have these provisions in their contracts now, and I wish you would accept the Majority Report.

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

Mr. PRAY: Mr. President and Members of the Senate: I would point out to the Members of this Body that what the points that the Senator from York, Senator Farley made are true. That it does do away with the licensing requirement but in the contractual requirements we might as well license them. The contractual requirements are listed range from the resistance factor, the type of insulation area to be covered, that means square footage, another area covered is the area to be insulated, type of vapor barrier, and guarantee against settling. There are 13 of them altogether of the contractual requirements that the insulators would have to go into with the individual that is doing business with them. I do not think that Maine people are so naive to spell out state law as to what should be included in a state contract and for that reason I would hope that the Senate would go along with the motion. I think that there is a limit of degree to exactly what we can spell out for the people to beware of. We cannot continuously attempt to take care of the day to day affairs of everybody. There is a point in time when these individuals have to start looking out and not be concerned about the long arms of the bureaucrats in Augusta to look out for them.

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

Mr. COLLINS: Mr. President and Members of the Senate, when I first looked at this Bill I too had some concern about it. Particularly in the form of the Committee Amendment. At the present time it seems to me that it is in a little better posture. In the first place, it applies only to existing homes, it does not apply to new homes being constructed. So that it will not interfere in any way with the regular building process of new homes. It does address a concern that I think we have particularly in the State of Maine with respect to providing proper insulation and saving energy and I think that all of us are aware that this is of the utmost importance at the present time.

I think the Bill with the House Amendment really deals with large insulation contractors who specialize in this particular area, and I think that the exemption provides that the do it yourself, the carpenter, the person who buys insulation for his own account or the small builder who applies insulation in the winter time and when he is not building homes, is exempt from the Bill.

So that it seems to me that it does outline a procedure whereby a commercial contractor that is applying insulator can follow certain rules in his contractual relationship whereby he does protect the customer in some fashion. There are instances today where insulation is being applied in a rather hazard manner and people are paying a considerable sum of money for really something that may not be properly done. It does not provide any licensing feature in its present form it merely outlines so that the customer may know properly what is occurring when he gets an insulation job done. And I think that with the House Amendment on the Bill is worthy of your support.

The PRESIDENT: The pending question before the Senate is a Motion by the Senator from Penobscot, Senator Pray, that this Bill and its accompanying papers be indefinitely

postponed.

A division has been requested.

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

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

7 Senators having voted in the affirmative and 15 Senators in the negative, the Motion to Indefinitely Postpone does not prevail.

The Majority Ought to Pass, as amended, Report of the Committee Adopted in concurrence.

The Bill read once. Committee Amendment "A" Read. House Amendment "A" Read.

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

Mr. HEWES: Mr. President, I would inquire if we are discussing Committee Amendment "A" or House Amendment "A"?

The PRESIDENT: The Chair would advise the Senator that we are discussing House Amendment "A".

House Amendment "A" to Committee Amendment "A" Adopted.

The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President, as I glance through the Committee Amendment, which is under filing number H-1115, I note that on section 1484 they are discussing awards for damages it says, "that in addition to the remedies and procedures provided in the unfair trade practices act, the court shall award the owner or tenant actual and consequential damages," and the term consequential damages, I think, ought to be clarified at some point. We have a category called punitive damages but I do not know how the drafters or the Committee intended the word consequential damages to be interpreted. We have compensatory damages that compensate the owner usually. If anyone could assist me on this I would appreciate it.

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

Mr. MERRILL: Mr. President and Members of the Senate: I hesitate to explain what the committee wanted to do having just voted to end all their doings, but I imagine that what is contemplated here is the idea that not only will the damages be paid in the traditional measurement of damages which is the difference between what the job is worth and what it would have been worth if it was as it was reputed to be, in the contract that we are demanding here, but also the other costs that might flow from it. Maybe the extra heating costs that resulted in the period of time for which it was relied upon, or any other damages of that kind above and beyond the traditional contract award. I think that that is probably what is contemplated. Certainly any member of the Committee that wants to correct me would be welcome to do so.

Committee Amendment "A", as amended, adopted.

This Bill, as amended, Tomorrow assigned for Second Reading.

Enactors

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

"An Act to Correct the Inequitable Taxation of Mobile and Modular Homes." (H. P. 1976) (L. D. 2059)

On Motion of Mr. Huber of Cumberland, placed on the Special Appropriations Table.

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

Committee on Judiciary
March 7, 1978

The Honorable Joseph Sewall
President of the Senate of Maine
State House
Augusta, Maine 04333
Dear President Sewall:
In accordance with 3 M.R.S.A., Chapter 6,

section 151, and with Joint Rule 37 of the 108th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the renomination of John V. Keaney to the position of Chairman of the Industrial Accident Commission.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 108th Maine Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee Assistant called the roll with the following result:

YEAS:
Senators 3
Representatives 7
NAYS:
Senators 0
Representatives 0
ABSENT:
3 — Representative Bennett, Sewall & Tarbell.

The members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the renomination of John V. Keaney to the position of Chairman of the Industrial Accident Commission be confirmed.

Sincerely,

Signed: SAMUEL W. COLLINS, JR.
Senate Chairman

Signed: RICHARD A. SPENCER
House Chairman

Which was Read and Ordered Placed on File.

The PRESIDENT: The Joint Standing Committee on Judiciary has recommended that the nomination of John V. Keaney be confirmed.

The PRESIDENT: The pending question before the Senate is: Shall the recommendation of the Committee on Judiciary be overridden? In accordance with 3 M. R. S. A., Chapter 6, section 151, and with Joint Rule 37 of the 108th Legislature, the vote will be taken by the yeas and nays.

A vote of YES will be in favor of overriding the recommendation of the Committee.

A vote of NO will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

(At Ease)

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

ROLL CALL

NAY — Carpenter, Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Greeley, Hewes, Hichens, Huber, Jackson, Levine, Lovell, McNally, Merrill, Morrell, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Wyman, Sewall

ABSENT — Danton, Farley, Katz, Mangan, Martin, Minkowsky, Usher

No Senators having voted in the affirmative and 26 Senators in the negative, with 7 Senators being absent, and None being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of John V. Keaney is confirmed.

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

Mr. MORRELL: Mr. President, with regard to Bill, "An Act to Amend the Charitable Solicitations Act to Change the Responsibilities of Religious and Small Organizations." (Emergency) (H. P. 2015) (L. D. 2090) whereby we voted to adhere, I would ask the Senate to reconsider.

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

Mr. PIERCE: Mr. President, I would ask the purpose of the reconsideration.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, has posed a question

through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Cumberland, Senator Morrell.

Mr. MORRELL: Mr. President, for the purpose of reconsidering.

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

Mr. PIERCE: Mr. President, due to the interest that the Senator has in this Bill and for the good of all concerned, I would certainly urge my fellow Senators to vote for the purposes of reconsideration of this matter.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Morrell, that the Senate reconsider its action whereby it voted to adhere on L. D. 2090.

Will all those Senators in favor of reconsideration please say yes.

Will all those opposed please say no.

A Viva Voce Vote being had, the Motion to Reconsider does prevail.

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

Mr. MORRELL: Mr. President, I now move that we Recede and Concur.

The PRESIDENT: The Senator from Cumberland, Senator Morrell, now moves that the Senate Recede and Concur with the House. Is it the pleasure of the Senate? It is a vote.

**Committee Report
Senate
Ought to Pass**

Mr. Pierce for the Committee on Business Legislation on, Bill, "An Act Concerning the Number of Persons Required to be Covered by an Existing Group Health Insurance Policy for its Renewal or Replacement." (S. P. 689) (L. D. 2123)

Reports that the same Ought to Pass. Which Report was Read and Accepted.

The Bill Read Once.

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

Mr. CONLEY: Mr. President and Members of the Senate: I would like to bring about an end to a rumor that is circulating throughout the Legislative Halls and I wonder if the Secretary may just hold up the Bill so that we can see it. There is a rumor going around that seven Bills from the Business Legislation Committee are missing. I would just like to see to it. Thank you very much Madam Secretary.

Tomorrow Assigned for Second Reading.

On Motion of Mr. Speers of Kennebec, the Senate voted to take from the Unassigned Table:

Bill, "An Act to Extend the School Budget Adoption Date." (Emergency) (H. P. 2125) (L. D. 2151)

Tabled — February 28, 1978 by Senator Speers of Kennebec

Pending — Passage to be Engrossed

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

Mr. KATZ: Mr. President, I offer Senate Amendment "A" to (L. D. 2151) (S-521) and move its Adoption.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now offers Senate Amendment "A" to L. D. 2151 and moves its Adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" (S-521) Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. KATZ: Mr. President, this is a minor Amendment on a Bill which will give some relief to any community, probably a charter community, which has some constraint on the early Adoption of its school budget. Earlier today the Governor signed the School Finance Act into Law and most communities in the State for the very first time in a number of

years will not have to extend their budget consideration waiting for the Legislature, but this will make it possible for a few to get necessary statutory relief.

Senate Amendment "A" Adopted.

This Bill, as amended, Passed to be En-grossed without reference to Committee in non-concurrence.

Sent down for concurrence.

On Motion of Mr. Huber of Cumberland, Adjourned until 10:30 in the morning, Wednesday, March 8, 1978.