

# 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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**Senate Confirmation Session**

June 14, 1978

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September 6, 1978 — September 15, 1978

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APPENDIX

## SENATE

In Senate, March 17, 1978  
Senate called to Order by the President.

Prayer by Attorney General Joseph E. Brennan.

Mr. BRENNAN: On this Saint Patrick's Day, while this Senate is engaged in important debate effecting the people of Maine, we should reflect on the fact that we do not really listen to each other, at least not all of the time. Instead of true dialogue we carry on two parallel monologues, I talk, my companion talks. What we are often concentrating on is how to sound good, how to make our points strongly, how to out shine the person with whom we are talking. Teach us to listen as Your son listened to all who spoke with Him. Teach us to be still, that we may truly hear our brothers and sisters and in them You. Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

**Papers from the House  
Non-concurrent Matter**

Bill, "An Act to Facilitate Recruitment and Retention of Outstanding Persons for Policy-making Positions in State Service." (Emergency) (S. P. 672) (L. D. 2076)

In the Senate, March 15, 1978, Passed to be Engrossed as Amended by Committee Amendment "B" (S-543).

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" (S-542) as amended by House Amendment "A" (H-1177), thereto, in non-concurrence.

On Motion of Mr. Collins of Aroostook, the Senate voted to Insist and ask for a Committee of Conference, Sent forthwith.

**Joint Order**

ORDERED, the Senate concurring, that the Joint Rules be amended by striking out all of the first paragraph of Joint Rule 23 and inserting in its place the following.

23. Cloture. First regular session. During any first regular session all other requests for bills and resolves shall be submitted to the Director of Legislative Research not later than 1:00 p.m. of the 2nd Friday following the convening of the session in January and such measures in complete final form shall be introduced into the appropriate House not later than 1:00 p.m. of the 7th Friday following. (H. P. 2254).

Comes from the House, Read and Passed.

Which was Read.

On Motion of Mr. Speers of Kennebec, Tabled until later in Today's Session, pending Passage.

**House Papers**

Bill, "An Act to Provide Compensation and Benefits Agreed to by the State and Council 74, American Federation of State, County and Municipal Employees, (AFSCME) for Employees in the Institutional Services Bargaining Unit. (Emergency) (H. P. 2273) (L. D. 2202)

Comes from the House, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed, in concurrence.

Sent forthwith.

Which was Referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Sent forthwith.

Bill, "An Act to Authorize Washington County to Raise Either \$1,200,000 for Construction of \$900,000 for Renovation of a Detention Center. (H. P. 2270) (L. D. 2201)

Committee on Local and County Government suggested.

Comes from the House, Passed to be Engrossed without reference to Committee.

On Motion of Mr. Jackson of Cumberland and

under suspension of the rules, the Bill Read Once.

Under further Suspension of the rules, the Bill Read a Second Time.

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

Mr. HEWES: Mr. President, before this is passed to be engrossed, I note that this apparently asked the voters, to answer two separate questions. One to raise \$1,200,000, and the other to raise \$900,000. The order to be instructed to vote yes on only one of the above questions. I do not know at this time proceedings have ever occurred in my memory here in the Legislature and I am wondering what happens if they vote yes on both of the issues, and in fact I suppose there could be a tie vote so that you could not tell which one they really preferred. I wonder if somebody could state an answer before this moves too far down the Legislative trail.

The PRESIDENT: The Senator from Cumberland, Senator Hewes, has posed a question through the Chair to some knowledgeable Senator.

The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President and Members of the Senate: I think it would be about the same as voting for two candidates for the same job. It would be invalid. I think the idea is to give the voters a chance as to whether they are going to, whether they are going to renovate the jail or whether they want to build a new jail. As I say, I would consider that to be a moral ballot as you have often seen in elections for candidates for office.

Which was Passed to be Engrossed without reference to Committee in Concurrence.

Sent forthwith to the Engrossing Department.

**Senate Papers**

Mr. Chapman of Sagadahoc presented, RESOLVE, Authorizing the Sagadahoc County Commissioners to Pay an Overdraft for 1977. (S. P. 751) (L. D. 2200) (approved by a Majority of the Legislative Council pursuant to Joint Rule 25).

On Motion of Mr. Jackson of Cumberland, and under suspension of the rules, the Bill Read without reference to Committee.

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

Which was Passed to be Engrossed without reference to committee. Sent down forthwith for concurrence.

**Orders**

An Expression of Legislative Sentiment recognizing that: John McSweeney, a revered Maine athletic educator and official, is retiring from his teaching-coaching profession at Old Orchard Beach High School, (S. P. 750) is presented by Senator Danton of York.

Which was Read.

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

Mr. HEWES: Mr. President and Members of the Senate: I apologize for being on my feet so much here but I could not let this go by.

John McSweeney is one of my heroes. When I was in Thornton, and He was all-state there, went into Colby and he was all-state at Colby College in football. He is held in such esteem in Old Orchard Beach that they have named a physical education building for him. He is presently chairman of the Maine State Lottery Commission. A dedicated citizen who has worked with children and youth and deserves any recognition that we can give him.

Which was Passed. Sent down Forthwith for Concurrence.

**Committee Reports**

**House**

**Ought to Pass — As Amended**

The Committee on Taxation on, Bill, "An Act to Provide for Refunding of Municipal Claims

under the Maine Tree Growth Tax Law." (H. P. 1969) (L. D. 2049)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-1161).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendments "A" (H-1168) and "B" (H-1174) thereto.

On Motion of Mr. Wyman of Washington, Tabled until later in Today's Session, pending Acceptance of the Committee Report.

**Divided Report**

The Majority of the Committee on Appropriations and Financial Affairs on, Bill, "An Act to Revise the Method of Computing Legislators' Expenses." (H. P. 1996) (L. D. 2077)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (-1166).

Signed:

Messrs. HUBER of Cumberland  
MERRILL of Cumberland

— of the Senate.

Mrs. GOODWIN of Bath  
NAJARIAN of Portland

Messrs. JALBERT of Lewiston  
PERKINS of Blue Hill  
PEARSON of Old Town

GREENLAW of Stonington

— of the House.

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

Signed:

Mr. MORRELL of Cumberland

— of the Senate.

Messrs. HIGGINS of Scarborough  
MORTON of Farmington  
CARTER of Winslow

— of the House.

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

Which Reports were Read.

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

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

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

Mr. LOVELL: Mr. President, this seems to me like a fairly good bill, and I do not believe that we should indefinitely postpone it, and I think that it means a little more money for some of the members that may be coming back and I am sure that they could use it because I have heard of many members that are not running again because they do not get enough expenses. So I would oppose that motion and request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, there is a divided report on this Bill. I can speak as one of the few members that is not coming back to the legislature and who knows it and as such, obviously I have no special interest, a contemplated interest to this bill, but I think that it is necessary and I hope the Senate will not reject.

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

Mr. JACKSON: Mr. President and Members of the Senate: In looking at this Committee Amendment that was filled with the Appropriations Committee, on page 1166, I think if the Legislatures are looking for a raise they ought to come right out front and ask for a raise and not through the back door, through the expense account. This shows that the actual mileage allowance, would be up to \$18. per day. That is a \$1,000 increase in the first regular session if it goes for 100 days, it is \$500.00 if it goes 50 days.

I for one, I commute. I commute 138 miles a day back and forth. I put a lot of mileage on a car, I do not do this job for the expense account money and I am sure that many other members in this body or in this legislature do not do it for the expense account money. I think if we want to address the question we should address it in a respectful manner, not a manner of the expense account if we deem it necessary to receive higher compensation, I think that we should address it with the appropriate legislation requesting an increase in the legislative salary.

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

The PRESIDENT: A Roll Call has been requested.

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

Mr. CONLEY: Mr. President and Members of the Senate: I do not think that this will be the most crushing issue to come before this Legislature. But I would say a few things with respect to this particular bill and no one knows who is coming back next session.

I would like to look back at the first time I arrived at the State House back 14 years ago when the Holiday Inn on Western Avenue first opened. Many of us at that time were paying \$7 a night to stay overnight and I believe that we were also receiving it may have been \$8 a day for meals, I am not sure, but everyone knows who stays in Augusta overnight knows that it cost them the minimum of \$18 a day for an evening stay at the Holiday Inn and if one goes out and has a supper, we know that it is probably the minimum there again of \$6 or \$7 for a supper and then you can subtract from the rest of it what it may cost you to have breakfast and dinner. I do not believe that the \$35 request is inflationary at all because of the fact that just the cost of the inflation over the last several years and I do not look at it as coming through the back door for an increase of salary.

I believe that it was two months ago when a questionnaire had been distributed through the Senate from one member of the Appropriations Committee asking Senators what they would support, whether it would be a salary increase which was totally and almost completely rejected. I myself voted against one when it came to increasing meal allowances and the overnight allowance for those who do not commute I supported that, and I think that it is only right to support it.

I think that we have, the record will show, the history will show, that we have almost a 50 percent turnover in the Legislature every two years. I know that certainly those who are sitting in this Chamber a session ago were quite concerned when we saw we had an almost an additional fifty percent turnover in this branch. I just do not think that people can afford to leave their jobs, people who have gifted talents to be able to make that sacrifice of coming to Augusta and make whatever contribution that they can to the operations of State government without undertaking some type of financial loss.

So it would be my hope that in the spirit of whoever is going to be here two years from now, that they at least be given an adequate allowance to stay here.

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

Mr. CARPENTER: Mr. President, first of all I do not live 200 miles away from Augusta, so I want to make sure that is clear as regard to the second part of this amendment of the Air Fare Provision. I think that the only reason that I am up this morning is that I resent a little bit to the remarks of the Senator from Cumberland. I do not think Senator Jackson, I do not think that we are going through the back door. I think that the idea of a debate and of a roll call and I think that there is something in the Bangor Daily and the other today about this. I for one am perfectly willing to do put my

vote my record out on the line and run for re-election. I do not think that I have to slink a 192 miles back to Houlton this afternoon thinking that I have done anything scurrilous or deceitful at all.

I just sat down and figured conservatively what it cost me to live a day in Augusta and I am certainly am not here for the money. I also am not wealthy, I do not have a lot of money or a blooming business to go back to. I would like to think that I could manage more than \$3,500 a year in terms of a salary if I were to get out of the Legislature and find full time employment somewhere else. I think that we looked at the beginning of this session at a fairly substantial increase in the room rate at the place I happen to stay increases every menu in Augusta and the surrounding area and I have certainly no reason to believe that the increase will not be tacked on again between now whenever the next Session of the Legislature and I do not want anybody in this Body or in the public to think that the Legislature is voting itself an increase. Unfortunately in this State we have a system whereby the Legislature cannot do this and every member that votes for or against this proposal must stand the test of the ballot in November and I certainly, when the Roll Call is taken, and I am glad that there was a Roll Call asked for, I will vote what I feel to be my conscience and I will take that back to Aroostook County and if that is the issue that defeats me for reelection this fall, so be it. But I do not want to leave the impression with anyone in this Chamber, a Senator or a press person, that the Legislature is trying to do something underhanded or beneath the table or whatever because I do not think that we are and I a little bit resent the inference that we may be.

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

Mr. CURTIS: Mr. President, I strongly oppose indefinitely postponing this proposal. I have asked that there be distributed on your desk this morning a list of what the salaries are for legislators in the various states taken from U. S. News and World Report in a very recent issue.

I would also like to bring to the attention of the Senate a report which was made in — December of 1973 at the request of a previous legislature regarding Legislative salaries and compensation and it was a report by a citizens committee which was appointed to serve function and I they did a full thorough study. The report is available in the Law Library, if you are interested in reading the details of it but I think that you will be interested in two of the observations made in 1973 by a citizens committee. One observation was that it is therefore a recommendation that Members of the Maine House and Senate receive a salary of \$5,000 to the regular session and \$2,500 for the special session but that was 1973 we have not yet reached that goal, a salary of \$7,500 for the biennium. Our salary now is only \$7,000 for the biennium.

The second part that you may be interested in is that they recommended an increase in the expense up to \$25 a day. Again that was in 1973 and that was a citizens committee that made that review, that recommendation.

It seems to me that if this Legislature really wanted to address the question we should indeed take to heart the observations made by the Senator from Cumberland, who said that a few minutes ago, that Senator Jackson, that what we should do is address the question of salaries and I think that we ought to address both questions and, therefore, I hope that if it is germane if this piece of Legislation lasts long enough that it would be proper and appropriate to offer an amendment to increase the Legislative salaries. I am certainly prepared to do that. I have supported every year that I have been in the Legislature for years, an increase in the legislative salaries.

A Bill which I introduced last year never

made it out of the State Government Committee a provide for an increase in compensation for Legislators and I guess that I feel strongly about perhaps more strongly now that I have decided not to run again, for re-election that we should provide a fair days pay for a good days work and Maine Legislatures provide for the people of the State of Maine a good days work and it works out in my estimate to be about a half time job year round. That would be my estimate of the length of time. So for that kind of service, the Legislators right now are being paid \$3,500 a year.

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

Mr. DANTON: Mr. President and Members of the Senate: It is a matter of record that I have voted many times at least the times that I have voted to vote to increase salaries and expenses. There is only one thing that bothers me with having this issue before us this morning. For a week or more we have been trying to get together both parties to do something for the people of Maine in the form of tax relief. I would hope that I could parallel this with my business or when was an employee in other businesses. I took care of the customers first point. In our case it is taking care of the citizens of Maine. I would hope that we would consider tabling this for two or three days so both parties can get together to see what we are going to do for the tax payers of Maine and then act this measure. I would hope that someone would table this.

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

Mr. MORRELL: Mr. President, as a signer of the Minority Report, I just briefly wanted to tell you why I signed it. I think, my feeling is that we ought to address the matter of Legislative compensation directly. I would be willing to do that. I would be willing to support a pay increase, but I hear or saw no documentation that precisely defined just how deficient if at all we were in the area of providing Legislative expenses and so for that reason and no other, I voted the Minority Report.

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

Mr. LOVELL: Just one more word. I guess that three or four of you Senators may remember when I first came into the Senate in 1960 and our pay was \$1,000 and we got a certain amount extra for the special session and we got mileage once a week and no room and board. That was really what you call low pay. Now we have gone up to a certain extent but inflation is gone up six to seven percent for the last four years. And this is just simply covering inflation to bring this up. I certainly hope you will vote. I do not think that we need it. We are going to back their money in their taxes somehow or another even if both parties cannot get together they will eventually, will give them back the money. Thank you.

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

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

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

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

Mr. KATZ: Mr. President, it seems to me that there is a very valid reason for attempting to put us into non-concurrence with the other Body. If there is the feeling on the part of some members that additional compensation is warranted, but no adequate case is made for going the direction that this Bill goes, a Conference Committee and there is going to be a lot of hanging around here today, could get to work and bring us a more justified posture. On that basis, I would suggest that if you vote against the motion to accept the Ought to Pass Report

this will put us in non-concurrence and make a Conference Committee possible. Indefinite postponement. In that event, a motion to indefinitely postpone would certainly put us in non-concurrence. So I urge you to vote for the motion.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Jackson, that this Bill and all its accompanying papers 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 — Chapman, Cummings, Danton, Greeley, Hewes, Jackson, Katz, McNally, Minkowsky, Morrell, Redmond, Snowe, Speers, Wyman.

NAY — Carpenter, Collins, S.; Conley, Curtis, Farley, Hichens, Levine, Lovell, Mangan, Martin, Merrill, O'Leary, Pray, Trotzky, Usher.

ABSENT — Collins, D.; Huber, Pierce.

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

The Bill Read Once.

Committee Amendment "A" Read.

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

Mr. MERRILL: Mr. President and Members of the Senate: I would like to pose a question because I think that it is relevant to those who have spoken of the wish to amend an amendment that I would not accept, but because I think much of this Bill is embodied in the amendment, if there was going to be an amendment that might have to be made to the Senate Amendment or it would have to be reconsideration motion. Someone has sincere desire to do that, they may consider an appropriate time to do so. I would question whether or not an amendment which went to the question of Legislative salaries would be relevant to a Bill which is entitled a method of computing Legislators expenses. I would point out that the constitutional provisions in regards to salaries is different than that with regards to expense and, therefore, I think that they are separate categories, and an amendment which would effect salaries would not be appropriate in this Bill. That is merely my suggestion, but I think that if anybody wishes to amend this might be the appropriate time to stop the process and get an amendment prepared.

Committee Amendment "A" Adopted. This Bill, as amended, Tomorrow Assigned for Second Reading.

#### Senate

##### Ought to Pass in New Draft

Mr. Curtis for the Committee on Judiciary on Bill, "An Act to Make Additional Corrections of Errors and Inconsistencies in the Laws of Maine." (Emergency) (S. P. 692) (L. D. 2132)

Reported that the same Ought to Pass in New Draft under same title. (S. P. 748) (L. D. 2199)

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

Under suspension of the rules,

The Bill Read a Second Time.

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

Mr. CURTIS: Mr. President, there are a number of amendments to this piece of Legislation. If I could address just briefly the Bill itself, which was distributed today and which is a lengthy document. I would say that the Judiciary Committee reviewed this piece of Legislation with great care and very carefully refrained from including anything in the printed document which we thought was in any way substantive, that is everything that is in

this document is indeed correcting an error of solving the problem caused by the inconsistency between two existing laws or sometimes three or four existing laws on the Maine books.

There is a description which is mimeographed and takes up a number of pages is provided to you, on your desks this morning that describes what the reasons are for the changes in the printed document and I would suggest that if you have not had an opportunity to review those titles which you might be especially interested in, that you might like to do that this morning.

There are also a number of amendments there are is at least "A" through "L" and I am not sure but maybe there is one or two more that are still being distributed right now. Those amendments are going to be offered this morning, at least most of them will be offered this morning, and in some instances are items which the Judiciary Committee reviewed, thought were good and valid solutions to problems, but considered the matter under consideration to be somewhat substantive, and, therefore, thought that it would be better to have the full light of Legislative attention shine upon an amendment as it was offered from the floor. Others of the amendments are entirely new matters to me and I believe other members of the Judiciary Committee, and I would suggest that you listen to the sponsors as they describe the validity of the amendments which they have to offer.

Mr. President, with that explanation, I would like to commence by offering Senate Amendment "A" to the Errors Bill (S-565) and move its adoption.

The PRESIDENT: The Senator from Penobscot, Senator Curtis, now offers Senate Amendment "A" to L. D. 2199 and moves its adoption. The Secretary will Read Senate Amendment "A".

Senate Amendment "A" (S-565) Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. CURTIS: Senate Amendment "A" addresses a question of an unusual situation that exists in the expiration of terms of office of members of the Board of Trustees at the University of Maine.

The situation is one in which the 15 members of the Board of Trustees of the University, 14 of them have their terms expire in May of whatever the seventh year after they are appointed, and there is no provision for a continuance of their term of office until their successors be appointed as we had in almost all other boards and commissions in state government and, therefore, I offer an Amendment to provide a situation in which Trustees whose term of office would otherwise expire in May, for example of 1978, to continue in office as a trustee of the University of Maine until the following January 15th or until their successors be qualified whichever might occur earlier and the primary reason that I offer this amendment is so that it will not be necessary for the Senate to be called into special session to confirm one or two reappointments to the Board of Trustees.

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

Mr. CONLEY: Mr. President and Members of the Senate: I find the errors in this inconsistency Bill handling it in this manner is going to be a matter of extreme confusion. I personally do not know what all these amendments are. It seems to me that we are liable to go through the alphabet a couple of times perhaps half of the alphabet here and then through the alphabet one and half times down at the other Branch.

But I recall the days when we use to have some sort of way of acting in a manner through the Joint Standing Committee on Judiciary in handling these so-called errors and inconsistencies, and that the Judiciary Committee itself,

with the director of the Legislative Research analyzed and studied each of the amendments as they were proposed to the Errors and Inconsistencies Bill. And I think that this is at least the most sloppiest way of trying to correct what may or may not be errors and inconsistencies within our statutes. My personal feeling would be that all the amendments that have been prepared up to date would be submitted to the Joint Standing Committee on Judiciary and have them review them, all 13 members of the Committee, and let them make that determination as to whether or not they are errors and inconsistencies to the Laws rather than having us, march through the alphabet two or three times because it is only common sense that people are going to get tired of either supporting amendments or fighting amendments and really not having a clear understanding as to whether or not they are in fact a correction within the Statutes. And I think that some real sleepers can be put into our Statutes through the procedure that we are now participating in and I just say that not as the Minority Floor Leader, I say it as a member of this Body, that I do not think that this is the best way of handling corrections of what are allegedly are errors and inconsistencies.

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

Mr. CURTIS: Mr. President, it was certainly the intent of the Judiciary Committee to be as conservative as possible as we reviewed the proposals which were made before us. The particular Amendment "A" which is before us now is one that was reviewed by the Judiciary Committee in considerable depth and finally determined by the Committee following the standard which we had adopted that there might be some consideration on the part of members of the Legislature that there would be a substantive matter involved here, perhaps one that the 13 members of the Judiciary Committee might not be aware of. I think that a number of amendments which are to be offered are not that many, probably about ten and I do not see, I hope that the Senator from Cumberland, Senator Conley, might agree. I do not see that there would be any great harm in addressing each of these issues separately.

On Motion of Mr. Speers of Kennebec,  
Recessed until the Sound of the Bell.

Recess

After Recess

Senate called to order by the President.

Senator Mangan of Androscoggin was granted unanimous consent to address the Senate on the Record.

Mr. MANGAN: Mr. President and Members of the Senate: As we go into the errors Bill this morning, I realize that there are some controversies about seeing 35 amendments in the House and several amendments here in the Senate.

I would like to advise members of my own party and also the other members of the Senate here this morning that the Judiciary Committee went over each portion of this Errors and Inconsistencies Bill. There are no substantial changes in that Bill at all. The actual complete Bill is a pure Bill, blessed by Heaven, so to speak, in the sense that anything that was any substandard in any way, shape, form, or manner the Committee automatically rejected and told the sponsors to go by way of amendment if they wanted to have it included.

I would urge you to at least consider the complete Errors and Inconsistencies Bill as presented without amendment to be one that has been combed carefully by the Members of the Judiciary Committee and it contains only errors and inconsistencies and nothing else. A lot of word changes. A lot of capitalizations. A

lot of commas, but I would ask that you take our word on that and at least keep the faith and we will go on to the amendments themselves. Thank you.

Senate Amendment "A" Adopted.

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

Mr. LOVELL: Mr. President, I am really backing in, but seeing I am up, I will present Senate Amendment "N" to (L. D. 2199), and speak briefly to the amendment.

The PRESIDENT: The Senator from York, Senator Lovell, now offers Senate Amendment "N" to L. D. 2199 and moves its adoption.

Senate Amendment "N" (S-578) Read.

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

Mr. LOVELL: Mr. President and Members of the Senate: The administrative assistant John Seltzer, I believe it is, he came to me yesterday and said that this had been left out of the Law which we had passed previously and this was to allow, I mean to have the referendum on all liquor questions at the November biennial election, because there would be more people out and was accidentally left out of the Law. I am sure that everybody will remember when we passed it.

Senate Amendment "N" Adopted.

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

Mr. DANTON: Mr. President, I offer Senate Amendment "I" to L. D. 2199 and I will explain the Amendment.

The PRESIDENT: The Senator from York, Senator Danton, now offers Senate Amendment "I" to L. D. 2199 and moves its adoption. The Secretary will Read Senate Amendment "I".

Senate Amendment "I" (S-573) Read.

The PRESIDENT: The Senator has the floor.

Mr. DANTON: Mr. President and Members of the Senate: What this amendment does, is allows the Maine Publicity Bureau to change its corporate name.

Senate Amendment "I" Adopted.

(Off Record Remarks)

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

Mr. CARPENTER: In an attempt to get things back in a sequence, I offer Senate Amendment "C" and I understand that "B" is not being offered to L. D. 2199 and speak briefly to it.

The PRESIDENT: The Senator from Aroostook, Senator Carpenter, now offers Senate Amendment "C" to L. D. 2199 and moves its adoption. The Secretary will Read Senate Amendment "C".

Senate Amendment "C" (S-567) Read.

The PRESIDENT: The Senator has the floor.

Mr. CARPENTER: Mr. President and Ladies and Gentlemen of the Senate: As you can see Senate Amendment "C" is a very straight forward. Somehow in the statutes in the State of Maine, we have allowed Presidents and Treasurers and Secretaries of corporations to sign affidavits against debtors as I understand the procedure and we neglected to include the word vice-president and this simply does allow a vice-president to sign this type of affidavit. Figuring that many vice-presidents are on the payroll to do this sort of thing, I assume and I do not think that there are any objections from Members of the Committee at least.

Senate Amendment "C" Adopted.

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

Mr. O'LEARY: Mr. President, I present Senate Amendment "E" and move its adoption.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, now offers Senate Amendment "E".

Senate Amendment "E" (S-569) Read.

The Secretary will Read Senate Amendment "E" (S-569) Read.

The PRESIDENT: The Senator has the floor. Mr. O'LEARY: Mr. President, I talked to Mr. Cole in the Department of Education and George Storer Department of Motor Vehicles, and Roger Mallar, in the Department of Transportation, and the Chairman of the Judiciary Committee, the Chairman of the Committee on Transportation about the need for this piece of Legislation and I will explain it very briefly.

There are presently two schools in the State of Maine that provide Motor Cycle Drivers Education plus one private operator in Bangor and what this amendment does it states that a person in order to get an operators permit shall complete a private education course and then demonstration of ability to safely operate a motorcycle before he be given an operators permit.

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

Mr. MINKOWSKY: Mr. President, I would like to pose a question through the Chair. If we do not have a Bill in the first regular session addressing this particular thing and the Bill was killed. If it was, I think that this is a Bill within itself and should not be addressed in this particular errors and inconsistencies Bill. And beside that, making people seventeen years of age or older eligible for a motorcycles license is not right. I don't think. I would move the Indefinite Postponement of this Amendment.

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

Mr. O'LEARY: Mr. President, I did not know whether there was a Bill or not on this but Monday of this week a constituent of mine called me to tell me of his son's problem. Sixteen years of age could not qualify to get a learners permit because there was no where that he could find a place that did give drivers education for motorcycles. Checking through the various Departments, such as I have, I find that there are two schools, Cony High School in Augusta and SAD 9 in Farmington, they do have this course. And there is one private operator as I said in Bangor. So what the law is doing in its present form is precluding anyone from the age of seventeen and under of getting a learners permit unless he resides in the immediate area of either Cony High or SAD 9 in Farmington or in the neighborhood of Bangor.

It is not my intent, sir, to presume that there will not be a major safety because in the manual for an operators permit there is such a thing as a course laid out which shows you what you must have to do and whereas this school, the teachers now that are presently giving drivers education are not really qualified in motorcycle operation, but they could observe a student going through the prescribed course, and thereby qualifying that student to get an operators permit. So I wish that you would bear this in mind and give this some real consideration. Otherwise then that, unless one of these seventeen year old or younger resides in the immediate area where these courses are given then you preclude them from having an opportunity to operate. And I am sure that after they have completed a drivers education course they are more aware of the necessary precautions that must be taken in the operation of a motor vehicle, and they are more aware that once they start through the course on a motorcycle and observed by the Teacher that is teaching this course, that he would be able to judge where that child or young student should have a permit, learners permit issued to him.

I do not see where there are going to be many schools in the near future, where some of these driver education teachers are really going to qualify to be teachers for the motorcycle permit as it is in the present law. But I am making sure in this amendment that they do successfully complete a drivers education course and then be able to demonstrate that

they can operate safely.

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

Mr. HICHENS: Mr. President, while I fully sympathize with the problems explained by the good Senator from Oxford, Senator O'Leary, I fully believe that this is a substantive change in the Law and not a correction or error in inconsistencies.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: I would concur with Senator Hichens insofar at least in my layman's interpretations of this. It is very, very clear that the right on the opening sentence, that after December 1, 1977, no motorcycle or motorcycle driven learners permit or permission or restriction to operate a motor cycle or motor driven cycle shall be issued to any person under seventeen years of age. Unless such person shall present a certificate of successful completion of a Motorcycle Drivers Education Course, etc. A lot of these kids are not even in school after age sixteen and, I also might look at this from the viewpoint that this could be an additional curriculum added on to the educational budget in various municipalities to add on Motorcycle Driving Education. It is basic from my point of view that it may be discriminatory, because other kids who are out of school at age 16 would have to go to a private driving school to learn how to drive a motorcycle or to qualify to get a permit in the State of Maine. I think that this is a substantive change and I still stand by my motion to indefinitely postpone this Amendment.

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

Mr. O'LEARY: I do not think that the Senator from Androscoggin, Senator Minkowsky, understands the intent of this piece of Legislation.

The intent is not to discriminate against those who are under 17 years of age. One community versus another. I know that there is an added expense if the schools were to try to qualify the teachers in motorcycle operations, so apparently this must be part of it. Now this Law as it is on the books now it says, after September 1, 1977, now this Law was enacted in 1973 and in the last session of the Legislature because there is no one available to teach a drivers education course for motorcycles. It was advanced to September 1, 1977 and there is still only three places in the State, one in Farmington, one in Cony High School, and one in Bangor, a private operator. So there seems to be the law saying that we preclude you from having an operators license you are being discriminated against. Now I am sure that you perhaps have not heard anything about it yet but when these, those who are under 17 years of age do go to the Department of Motor Vehicles to try to get a operators permit, a learners permit, that you will start hearing there is no way that they can get a learners permit because they are under 17 years of age and there is no one to teach them drivers education.

My amendment requires that they have had, drivers education. Now they can get drivers education from a private person in almost any community they can get it in school. But the person that gives a Drivers Education Course after observing this student on a motorcycle going through a prescribed course, which is in the operators permit manual, then he can know whether that person can actually ride that motorcycle, operate it safely and that is what this amendment is all about and it is all that it does.

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

Mr. SPEERS: I move the previous question.

The PRESIDENT: The Senator from Kennebec, Senator Speers, has moved the previous question. Is it the pleasure of the Senate that the previous question be put now? It is a vote.



The pending question before the Senate is the Motion by the Senator from Androscoggin that Senate Amendment "E" 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.

12 Senators having voted in the affirmative and 11 Senators in the negative the Motion to indefinitely postpone does prevail.

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

Mr. CONLEY: Mr. President and Members of the Senate: Again I would like to address myself to this Bill, as it is before us. The Majority Floor Leader and I took a little trip to the other end of the corridor to see if there might be a way of expediting the procedure here.

There are 35 amendments prepared at the other end of the hall to be offered to this document. Now I know that it is St. Patti's Day, but I am afraid that by the time we get through celebrating it, it is going to be St. Patti's Day next year. And it would seem to me that if we are going to scrutinize the amendments as to whether or not they are a matter of change in the Law or an error in the Law they should be scrutinized by the Judiciary Committee and I think for us to pursue along these lines is a mockery of the Legislature.

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

Mr. CURTIS: Mr. President, I offer Senate Amendment "F" (S-570) and would speak to it briefly.

The PRESIDENT: The Senator from Penobscot, Senator Curtis, now offers Senate Amendment "F" to L. D. 2132 and moves its adoption. The Secretary will Read Senate Amendment "F".

Senate Amendment "F" (S-570) Read.

The PRESIDENT: The Senator has the floor.

Mr. CURTIS: Mr. President, this is an amendment which was reviewed by the Judiciary Committee but which I guaranteed I would offer on the floor so that I could explain it very briefly.

It provides that four or five officers are also polygraph operators, would be able to continue in their profession beyond the effective date of a new law, which provides that they must also be licensed private investigators, that private investigation law which replaced the old detective law came from the Legal Affairs Committee and we were fortunate in having some assistance from members of the Legal Affairs Committee to review this Bill and it is my understanding that it does not have any objection.

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

Mr. CONLEY: I pose a question through the Chair to the Chairman of the Joint Standing Committee of Judiciary as to whether or not this is an error or an omission of the Law.

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

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: I would have to say that it is not an error, that is one reason that it is being presented from the floor under the word inconsistency, which is a rather broad word. I guess it depends on how you look at the State Police Officers now who are in possession of licenses. This Bill, as I understand, grandfathered the present holders. I am not sure that I would call it an inconsistency. I think probably there is a policy decision.

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

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

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the adoption of Senate Amendment "F" to L. D. 2199 please rise in their place to be counted.

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

18 Senators having voted in the affirmative and 5 Senators in the negative, Senate Amendment "F" is Adopted.

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

Mr. COLLINS: I present Senate Amendment "G" (S-571) and move its adoption, and would speak to my motion.

The PRESIDENT: The Senator from Knox, Senator Collins, now offers Senate Amendment "G" to L. D. 2199 and moves its adoption. The Secretary will Read Senate Amendment "G".

Senate Amendment "G" (S-571) Read.

The PRESIDENT: The Senator has the floor.

Mr. COLLINS: Mr. President, this is a true correction in errors and it is to pick up mistakes in Bills passed during the current session, and strike out sections that were duplicated or misnumbered. And that is the only thing that is in this particular amendment.

Senate Amendment "G" Adopted.

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

Mr. COLLINS: I present Senate Amendment "H" (S-572) and move its adoption.

The PRESIDENT: The Senator from Knox, Senator Collins now offers Senate Amendment "H" to L. D. 2199 and moves its adoption. The Secretary will Read Senate Amendment "H".

Senate Amendment "H" (S-572) Read.

The PRESIDENT: The Senator has the floor.

Mr. COLLINS: Mr. President, this amendment was discussed in the Judiciary Committee but it was not possible to prepare it is time for the printing of the Bill, and the other purpose is to pick up the name change that was made in the Industrial Accident Commission which is now the Workers Compensation Commission and correct the various cross references in Statutes to bring that name change up to date.

Senate Amendment "H" Adopted.

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

Mr. COLLINS: I offer Senate Amendment "K" to L. D. 2199 and move its adoption.

The PRESIDENT: The Senator from Aroostook, Senator Collins, now offers Senate Amendment "H" to L. D. 2199 and moves its adoption. The Secretary will Read Senate Amendment "H".

Senate Amendment "H" (S-575) Read.

The PRESIDENT: The Senator has the floor.

Mr. COLLINS: Mr. President and Members of the Senate: The Amendment is necessary to make L. D. 2199 which was the Manpower Affairs Reorganization Bill comply in Title 26 and it also adopts the language of — L. D. 2111 which was the reclassification Bill into Title 22.

Senate Amendment "K" Adopted.

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

Mr. CHAPMAN: Mr. President, I offer Senate Amendment "L" (S-576) and move its adoption.

The PRESIDENT: The Senator from Sagadahoc, Senator Chapman, now offers Senate Amendment "L" to L. D. 2199 and moves its adoption. The Secretary will Read Senate Amendment "L".

Senate Amendment "L" (S-576) Read.

The PRESIDENT: The Senator has the floor.

Mr. CHAPMAN: Mr. President and Members of the Senate: The Charitable Solicitations Act has reference to an independent public accountant which was not defined and caused some confusion. So this amendment clarified the definition of an independent public accountant. The present Law further stipulates that a financial report shall be audited by an independent public accountant the intent apparently was that it should be prepared by an outside public accountant. And amongst the accounting

profession the word Audit connotes a lot more deeply prepared work than a simple preparation. In addition, present Law stipulates that a copy of a financial statement as well as an audit and an opinion must be submitted in another paragraph that refers almost to the same thing apparently it was the understanding that if an audit or opinion statement had been prepared as it is for some large organizations that it should be submitted. Small organizations do not generally have opinion audits prepared. They are very costly, and this amendment clarifies that an audit opinion statement shall be submitted if it is available.

Further it clarifies the intent that a group of persons who were organized for the limited time for the sole purpose of providing relief to a named beneficiary such as someone who may have been burned out in a fire and people want to get together to get some money and services to assist these people do not come within the definition of the act.

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

Mr. PRAY: Mr. President, I would like to pose a question through the Chair to the sponsor of this amendment, as to perhaps his last remarks would clarify by reading section 373. It just states that that section is repealed and without continuously running over and grabbing different books and Maine Statutes and checking this out, could you advise us as to what that one paragraph is?

The PRESIDENT: The Senator from Penobscot, Senator Pray, has posed a question through the Chair to the Senator from Sagadahoc, Senator Chapman.

The Chair recognizes the Senator.

Mr. CHAPMAN: Mr. President and Members of the Senate: I referred under the financial statement section that there were two references to the need to file financial statements both of them seeming to allude to an audit opinion being prepared. The intent was, as I understand it from the sponsor and others, that if an opinion audit is available, they would like to have that if it is not it is not necessary. This clarified that intent by striking out one section and clarifying it in another. These matters were brought to the Business Legislation Committee, which handled this matter they feel that these adjustments do clarify and express the intent of the Bill and also reviewed this with the Consumer Fraud Division and they also concur with these changes.

Senate Amendment "L" Adopted.

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

Mr. HICHENS: I now present Senate Amendment "J" and moves its passage and would speak on it.

The PRESIDENT: The Senator from York, Senator Hichens, now offers Senate Amendment "J" to L. D. 2199 and moves its adoption. The Secretary will Read Senate Amendment "J".

Senate Amendment "J" (S-574) Read.

The PRESIDENT: The Senator has the floor.

Mr. HICHENS: Mr. President and Members of the Senate: Back in 1975 there was a Potato Bonding Bill passed because of the problems up in Aroostook on the different processes paying the growers and now three years later we find that the word dealer does not cover the processes and so I have been advised by the Attorney General's Department that the word license has to replace the word dealer. I fully go along with the good Senator from Cumberland's remarks this morning regarding the rather ridiculous attitude in which we are in where we are presently all of these amendments to a Bill which the Judiciary Committee has had all this session and in this case it has had three years to correct I do not understand why the Attorney General's Department is so slow in finding these things because I know that this was brought to bare within a year after the

Bill was passed and so it is with great reluctance but as Chairman of the Agriculture Committee, I am sort of forced to present this Amendment but I do hope that it is passed because it is probably needed, but I think that it is showing a lack of judgment from the Attorney General's Department and because of it was not presented to the Judiciary Committee long — before this.

Senate Amendment "J" Adopted.

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

Mr. USHER: I offer Senate Amendment "M" to L. D. 2199 and move its adoption.

The PRESIDENT: The Senator from Cumberland, Senator Usher, now offers Senate Amendment "M" to L. D. 2199 and moves its adoption. The Secretary will Read Senate Amendment "M".

Senate Amendment "M" (S-577) Read.

The PRESIDENT: The Senator has the floor.

Mr. USHER: Mr. President and Members of the Senate: I believe that this is a valid amendment. It puts the Warden Service vehicles in the same category as State Police vehicles. It excludes them from the 75,000 replacement policy. We have a number of four wheel drive vehicles in the Warden Service which are breaking down between 60,000 and 65,000 miles, and it is costing a lot of money to repair them. The wardens have very unusual driving conditions and this causes the added abuse to the vehicles.

Senate Amendment "M" Adopted.

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

Mr. KATZ: Mr. President, I offer Senate Amendment "O" (S-579) and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now offers Senate Amendment "O" and moves its adoption. The Secretary will Read Senate Amendment "O".

Senate Amendment "O" (S-579) Read.

The Senator has the floor.

Mr. KATZ: Mr. President, this removes a section from the Bill and it is inclusion in the Bill was an error and leaving it in there would create an inconsistency. It pertains to the contract basis of youngsters attending our professional schools and it repeats a section of an existing Law which we have already replaced at this Session.

Senate Amendment "O" Adopted.

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

Mr. MANGAN: I present Senate Amendment "P" and I move its adoption.

The PRESIDENT: The Senator from Androscoggin, Senator Mangan, now offers Senate Amendment "P" to L. D. 2199 and moves its adoption. The Secretary will Read Senate Amendment "P".

Senate Amendment "P" (S-580) Read.

The PRESIDENT: The Senator has the floor.

Mr. MANGAN: Mr. President, this is a fairly simple amendment. Under title 36, section 6, there were or there are at this point, two complete section 6 A's and they are inconsistent with each other, and this basically revises, one and revises the other, to meet the understandings of both sections together. It is an inconsistency in the Law.

Senate Amendment "P" Adopted.

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

Mr. CURTIS: Mr. President, I offer Senate Amendment "Q" and move its adoption.

The PRESIDENT: The Senator from Penobscot, Senator Curtis, now offers Senate Amendment "Q" to L. D. 2199 and moves its adoption. The Secretary will Read Senate Amendment "Q".

Senate Amendment "Q" (S-582) Read.

The PRESIDENT: The Senator has the floor.

Mr. CURTIS: Mr. President, this amendment addresses a situation which has occurred this year in which the State Government Com-

mittee of a few years ago in its revision of the laws regarding the replacement of the Executive Council had not anticipated happening. That was the situation in which a nomination posted by a governor would be considered by committee and not get any kind of vote either recommended for approval or recommended for rejection, that is the matter would be tabled. The committee has 20 days in which to act, having not taken any action one way or another the Senate is left hanging in limbo. And the purpose of this amendment is to provide that, if the committee shall fail to recommend either confirmation or denial within the 20 days that that failure shall be considered for the purposes of the confirmation law to be a recommendation of confirmation and then could be considered by the Senate. The rest of the amendment really qualifies what has already been provided in the Attorney General's opinion regarding the right of a Governor to pass the nomination to the expiration of the term of office of the person presently holding it.

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

Mr. MERRILL: Mr. President, this amendment is clearly a matter of substance. I move its indefinite postponement.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, now moves that Senate Amendment "Q" be indefinitely postponed.

The Chair will order a Division.

All those Senators in favor of Indefinite Postponement of Senate Amendment "Q" please rise in their place to be counted.

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

Mr. HEWES: Mr. President, I had not meant to speak on this. The Senator from Cumberland, my colleague, Senator Merrill, says that this is substantive. It seems to me that it is a clarification, because we previously have not had the, when the Governor's Council, Executive Council, was abolished. I do not think that it was contemplated that a committee might fail to act one way or another, and this as I see it just says that their failure to act will be taken as confirmation. And in the second part Section 372, it seems to be a clarification of what is the law based on the Attorney General's opinion. So I would hope that we would not Indefinitely Postpone Senate Amendment "Q".

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

Mr. SPEERS: Mr. President, I must agree with my colleague, the Senator from Cumberland, Senator Merrill, with regard to this amendment.

I think that it is a bit odd to say that if a Committee fails to act that that shall be deemed an affirmative action and that is what we are doing with this particular amendment and I think that it is in their error to take this action with regard to that matter here this afternoon without some, at least, some very careful thoughts being given to it.

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

Mr. PRAY: Mr. President and Members of the Senate: Serving on the Labor Committee, we have had several nominations pending, and those nominations have been tabled, the example that has been raised by the Senator from Penobscot, Senator Curtis. I think that we have a situation in each one of these instances which the Committee acted rather wisely for not only benefit of the appointment, but the appointee. Individuals that we had considered and the few weeks ago that both the nominations were tabled, it was a general consensus of the Committee Members that both individuals are fine people qualified to serve on the appropriate board which the Governor had nominated them but pending certain circumstances and situations that dealing with their appointment, we found that at times it would not be appropriate to recommend their conformation because of

the judicial process involved in the Judicial Board on which they sat on.

It was a belief of the Committee that instead of nominating these two individuals to confirm them to their qualifications have them go through their confirmation process of the Senate Chamber, receive the support of this Body and then sit and wait for the Governor swear them in on his 30 day period and due to the pending cases we had the Governor representative had spoken and informed us that the Governor would not swear them in and talking to both individuals they said that they would rather have the motion at that time tabled and to be reposted by the Governor to be renominated by the Governor if the governor felt that they were so qualified as the committee had and I just think that a number of individuals and a number of boards that we have that are confirmed by the Senate through the process which has been taking place since we abolished the Executive Council would only be made mockery if we passed something such as this saying that, or taking away the Committee's action and interpreting it to be considered a recommendation and confirmation. I wholeheartedly support the motion made by the Senator from Cumberland, Senator Merrill and I would hope that we would deal with this matter perhaps in another session where we could tell the Executive Department, the Chief Executive that in order to remain in a little bit of consistency with these boards that we have that he makes the appointment at the appropriate times we would not have these problems to start with.

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

Mr. MERRILL: Mr. President and members of the Senate: I would like to raise another problem with this amendment be offered as it is as an amendment to one errors and inconsistency filled.

As you know a special provision has been made in the constitution to any changes that be made in the laws as regards to the confirmation powers of the Legislature and that standard is a slightly different standard than the standard that is necessary for this bill to pass as an emergency. Indeed it is possible that this Bill before us is technically possible at least in the errors, Bill could have the emergency clause removed and then be able to move ahead with simple majority and yet this amendment in order to be passed because it deals with that area of confirmation required by the constitution a two-third's vote, therefore, I not only think that is inappropriate that this be offered as a matter of substance in a Bill that is supposed to deal with errors and inconsistencies but I also think that is inappropriate that the matter dealing with the confirmation powers ever be dealt with another piece of legislation considering the fact that there is a constitutional requirement that a special vote be required.

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

Mr. CURTIS: Mr. President, I am going to ask that the Senator give me a leave to withdraw this amendment, not because I do not feel that it is a wise course of action, but because I do not want to cause unnecessary debate at this time. I would point out to the Senate, however, that we are put in a very difficult constitutional position because we have an obligation under the constitution to take action upon the Governor's nomination and yet a committee has not done its statutory duty and sent us either a recommendation for confirmation or denial.

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

Mr. MERRILL: Mr. President, is it necessary for me to withdraw my motion to indefinitely postpone before the motion to withdraw the amendment is made?

The PRESIDENT: The Chair advises the Senator that it will not be necessary if the Senate goes with the suggestion to grant leave



of the amendment. Is it the pleasure of the Senate to grant the Senator from Penobscot, Senator Curtis, leave to withdraw from consideration of Senate Amendment "Q"?

The PRESIDENT: It is a vote.

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

Mr. O'LEARY: Is this the end of all the amendments to be offered?

The PRESIDENT: The Chair would certainly hope so.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President, relevant to (S-569) Senate Amendment "E" I now move for reconsideration.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, now moves the Senate reconsider its action whereby it indefinitely postponed Senate Amendment "E" to L. D. 1299.

Will all those in favor of reconsideration please say yes.

Will all those opposed please say no.

The Chair is in doubt and will order a Division.

Will all those Senators in favor of reconsideration of the Senate's action whereby it indefinitely postponed Senate Amendment "E" to L. D. 2199 please rise in their places to be counted.

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

24 Senators having voted in the affirmative, and 1 Senator, in the negative, the Motion to reconsider does prevail.

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

Mr. MARTIN: Mr. President and Ladies and Gentlemen of the Senate: Since our actions, previous action to indefinitely postpone this Bill, I have had the opportunity to discuss this with the Senator from Androscoggin, Senator Minkowsky and I believe he has no further objections to the amendment I would urge its passage.

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

Mr. PRAY: Mr. President and Members of the Senate: I think what we have just seen perhaps is an example when you take an Irishman such as my seatmate the good Senator from Oxford, and the Senator from Aroostook, representing another ethnic group its surprising what can happen in this Chamber.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: In addition to that particular statement made by the Honorable Senator Pray, I would like to inform him that when you speak about ethnic groups my mother was 100 percent Irish.

The PRESIDENT: The pending question before the Senate is the adoption of Senate Amendment "E" to (L. D. 2199).

Senate Amendment "E" Adopted.

The Bill, as amended, be Passed to be Engrossed.

Sent Down forthwith for concurrence.

#### Second Readers

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

#### House — As Amended

Bill, "An Act to Restore Matching Funds to the Maine Criminal Justice Planning and Assistance Agency." (Emergency) (H. P. 1860) (L. D. 1923)

Which was Read a Second Time.

On Motion of Mr. Pierce of Kennebec,

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

RESOLVE, Authorizing Beverly Mortimer and Dennis Perkins to bring Civil Action Against the State of Maine. (Emergency) (H. P. 2173) (L. D. 2174)

Bill, "An Act to Establish Standard Interest and Penalty Provisions for the Tax Laws." (H. P. 2070) (L. D. 2130)

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

Sent down for concurrence.

#### Senate

RESOLUTION, Proposing an Amendment to the Constitution to Provide that Taxes Which a School District is Authorized to Levy May be Assessed in Any Cost-sharing Formula Mutually Agreeable to the Communities Involved. (S. P. 749) (L. D. 2198)

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

Sent down forthwith for concurrence.

#### Enactors

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

"An Act to Abolish the Mental Health and Mental Retardation Improvement Fund and Make Provision for Future Funding of Existing Programs from the General Fund." (H. P. 2010) (L. D. 2085)

"An Act to Revise the Venue Provisions of the Maine Employment Security Commission Appeals Procedure." (H. P. 1871) (L. D. 1928)

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

#### Emergency

"An Act Extending the Time for Apportionment of County Taxes from March to April in the Year 1978." (H. P. 2243) (L. D. 2196)

#### Emergency

"An Act to Establish the Maine Takeover Bid Disclosure Law." (S. P. 665) (L. D. 2056)

These being emergency measures and having received the affirmative votes of 25 members of the Senate, were Passed to be Enacted, and having been signed by the President, were by the Secretary presented to the Governor for his approval.

#### Emergency

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Aroostook County for the Year 1978. (H. P. 2217) (L. D. 2185)

#### Emergency

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1978. (H. P. 2228) (L. D. 2188)

These being emergency measures and having received the affirmative votes of 24 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.

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

#### Order

On Motion of Mr. Katz of Kennebec,

ORDERED, the House concurring, that the Joint Standing Committee on Education is directed to report out a bill creating an Interim Education Finance Commission. (S. P. 753)

Which was Read and Passed.

Sent down forthwith for concurrence.

#### Orders of the Day

The President laid before the Senate:

House Report — From the Committee on Taxation — Bill, "An Act Relating to the Taxation of the Unorganized Territory." (H. P. 2059) (L. D. 2117); Ought to Pass in New Draft (H. P. 2139) (L. D. 2159)

Tabled — March 16, 1978 by Senator Speers of Kennebec

Pending — Acceptance of Report

On Motion of Mr. Wyman of Washington Retabled until later in Today's Session.

The President laid before the Senate: Joint Order — Relative to Amending Joint Rule 22. (H. P. 2256)

Tabled — March 16, 1978 by Senator Katz of Kennebec

Pending — Passage

On Motion of Mr. Speers of Kennebec

Ratabled until later in Today's Session.

The President laid before the Senate:

Joint Order — Relative to Amending Joint Rule 39. (H. P. 2252)

Tabled — March 16, 1978 by Senator Katz of Kennebec

Pending — Passage

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

The President laid before the Senate:

House Reports — From the Committee on Appropriations and Financial Affairs — Bill, "An Act Relating to Appropriating Funds for Certain Municipal Governments." (H. P. 2096) (L. D. 2139) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass

Tabled — March 16, 1978 by Senator Merrill of Cumberland

Pending — Acceptance of Either Report

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

Mr. MERRILL: Mr. President, I move that the Senate accept the Minority Ought to Pass Report and would like to speak briefly to my Motion.

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

The Senator has the floor.

Mr. MERRILL: Mr. President and Members of the Senate: First of all I would like to point out to the Senate that an amendment has been prepared for this Bill, if it gets to its Second Reading stage which just makes a correction in terms of numbers in the Bill, but one which may be of importance to the Senate in considering what they would do today. After a recomputation by the Department of Education and Cultural Affairs, the price tag on this Bill is about a 1/3 of what it shows up as in the original document. Accurate figures as they are now computed by that Department would be \$329,279 as opposed to a sum in excess of \$1,000,000. That shows up in the L. D. I know that that may be of importance to some of the members here as they consider their vote on this item.

Now this is a matter which has an obvious no direct effect on the city of Portland, but it is a matter of whether or not we are going to redress the problem of some of the towns that are in, that are in school administrative districts, that will continue to be a pay in towns unless some redress of that situation is made. And my concern here is not only with the fiscal problems of those towns and in acting what I believe to be consistently with the intent of the voters as expressed last December. But also with the fact that I agree with many of the people who testified before the Appropriations Committee, including the Maine Municipal Association, that unless we redress this problem, in this fashion at least until it can be dealt with by the Educational Commission, that we have just authorized or set on the path to being authorized that unless it can be dealt with in the short term in this bases, that many of these SAD's will be broken up, because if these towns were dissolve themselves of the SAD's, then they would not find themselves in this paying situation and I believe that that would not necessarily be something that would lead to better education in these towns and I think that, therefore, the Senate would be wise to accept the Ought to Pass Report, and when this gets to its Second Reader, let me offer the amendment

that will bring the price tag into line with what the Department currently computes the cost to be.

The Minority Ought to Pass Report of the Committee Accepted in concurrence. The Bill Read Once.

On Motion of Mr. Merrill of Cumberland, and under suspension of the rules, the Bill Read a Second Time.

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

Mr. MERRILL: Mr. President, I offer Senate Amendment "A" (S-581) and move its adoption.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, now offers Senate Amendment "A" to L. D. 2139 and moves its adoption. The Secretary will Read Senate Amendment "A".

Senate Amendment "A" (S-581) Read.

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

Mr. KATZ: Mr. President, and Members of the Senate: This is a major issue which I want to forcefully call to your attention.

The Senator from Cumberland, Senator Merrill has indicated that this pertains to certain towns who despite the repeal of the Uniform Property Tax remained paying communities because they are members of the school administrative district and the school administrative district is dealt with in an overall unit basis.

The Bill which came originally before the Committee on Education with a \$1 million price tag on it, was after we dealt with it at some length clearly an appropriations matter. The Education Committee suggested that it go to appropriation with our recommendation that it be funded in our overall system of priorities. In candor we identified it as a low priority item, but we recommend funding.

The direction that is being taken by the Senator from Cumberland, Senator Merrill in offering his amendment causes me great concern. I frankly do not know whether it is appropriate or inappropriate. I have a deep concern that what the nature of the Amendment is, is to say that we have got about a million dollars or so payin to take care of. The State under the Amendment would come up with approximately a third of the amount but as I have dug into this, I have a very nagging fear that the other two-thirds will be borne by the communities with those SAD's in a readjustment of the cost. I feel very uneasy here because I do not know that I am correct and it is so darn complicated I am not sure that any amount of debate is going to elicit a greater understanding in my part or not. If you have got a million dollar payin overall, and if we amend this down to \$329,000 of state money, the implication is very, very clear that the other towns within that SAD are going to get stuck for the difference and as you attempt to give property tax relief to the town of Hampden for example in SAD 22, it may be that you are going to be putting some additional load on Newburg and Winterport. By state fiat. Now the Education Committee has done several things this Session. In the first place, we found immediately that the simplistic approach of the proponents of the Uniform Property Tax that all we are doing is repealing the Uniform Property Tax and we can use some scotch tape and take care of the things. The simplistic approach certainly was not true in fact, that we have come across some very, very perplexing problems that we were completely unable to face within the constraints of our time. So we have done a couple of things. In the first place we have put forward a constitutional amendment which says in effect, that if within a district it will give the Legislature next time the right to say that if within a district communities wish to join together and share cost on some basis other than property evaluation, they may do so. We mean this as a clear sign to all the SAD's with these

perplexing problems that the legislature is concerned that although we do not know the answer right now, as constitutional amendment is certainly the first step to permit the next legislature to do something.

The second thing that we have done is we hope that you will go along on the creation of this Finance Commission. The Joint Order read just a moment ago. Among other things this Finance Commission will be charged with looking at the inter-intra relationship of communities within a school administrative district and this is one of the problems facing us with this Amendment.

And a third thing that we did was asked you to take a look at this appropriation. We are walking on very thin ice for two reasons. In the first place, a portion of Title 20 may very well be unconstitutional and by taking three steps we have asked and given a signal to people in the state be patient this is a result of the repeal of the uniform property tax, it is very complicated give us a chance in good faith to deal with the problem.

I stand here and I am not sure that the Senator from Cumberland, can give me the reassurance that I need on this Amendment, but I am deeply concerned and I stand without adequate knowledge to assure you one way or the other the thing that bothers me about the amendment if my fears are true, it could turn out to be state government in Augusta mandating that the communities within the SAD's must cough up money themselves to give some of the property tax relief to the paying communities within the SAD's and this is a particularly rotten position I find myself.

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

Mr. LOVELL: I would like to pose a question through the Chair please.

The PRESIDENT: The Senator may pose the question.

Mr. LOVELL: One of my towns is Shapleigh and Newfield. And Shapleigh on one original bill is given a \$53,000 and on the amendment they have nothing. Well, I cannot go along with the amendment of one of my towns, I am sure that town would not like me to vote here and to cut them out so that they do not get a cent. And, of course, I have a sentimental feeling on Lovell Maine and they have cut Lovell Maine quite a bit to 50 percent. So I just wonder, well I won't move indefinite postponement at this time, I think that is what I want to do with this amendment. If I can have some answers' to what they are planning to do.

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

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: In SAD 57 the town of Shapleigh would get tax relief from the bill and so would the town of Newfield, I believe, but my concern is and so with Limerick. My concern is that it may very well be part of this tax relief under the amendment may come from increased burdens on Alfred, Limon, and Waterboro. I have a feeling that one-third of the tax relief for the pan communities in this SAD could come from the State and two-thirds from the other Communities in the SAD's and unless I have absolute assurance my fears are unfounded I think that we are treading a very dangerous ground with this amendment.

On Motion of Mr. Merrill of Cumberland, Tabled until later in Today's Session. Pending Adoption of Senate Amendment "A".

The President laid before the Senate: Bill, "An Act to Clarify the Education Laws." (H. P. 2018) (L. D. 2093)

Tabled — March 16, 1978 by Senator Katz of Kennebec.

Pending — Passage to be Engrossed. The PRESIDENT: The Chair recognizes the

Senator from Kennebec, Senator Katz.

Mr. KATZ: I offer Senate Amendment "B" (S-564) and move its adoption and it is a clarification, not a substantive change with just a couple of words underlined.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now offers Senate Amendment "B" to L. D. 2093 and moves its Adoption. The Secretary will Read Senate Amendment "B".

Senate Amendment "B" (S-564) Read and Adopted. This Bill, as amended, Passed to be Engrossed in non-concurrence. Sent down forthwith for concurrence.

The President laid before the Senate: Joint Order — Relative to Amending Joint Rule 40. (H. P. 2264)

Tabled — March 16, 1978 by Senator Katz of Kennebec

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

Mr. Hichens of York was granted unanimous consent to address the Senate on the Record.

Mr. President:  
In the news today I read that Mr. Garrell Mullaney has been appointed as superintendent of the Augusta Mental Health Institute.

This appointment bothers me and for the first time since the present Commissioner of Mental Health & Corrections was appointed by the Governor I feel that he has made a poor decision.

Mr. Mallaney came to Maine as an appointee of the then Commissioner William Kearns to serve as a warden of the state prison. Mr. Mullaney did not, as shown by the records, handle the job to the satisfaction of the then Director of Corrections, Miss Murphy; caused problems with the prison staff and did not respond to prisoners needs in many ways. He initiated a furlough program which has since been modified severely. He served as warden for only two years and left under severe pressure.

In this news release, it states that "as acting supt. of the Augusta Institute, he has initiated a planning process for the transition from geographic units to units based on patients needs.

A few years ago a former superintendent initiated the transition to geographic units which caused a terrific upheaval at the hospital. Many patients used to their living conditions were moved from one building to another sharing the same quarters regardless of age, sex or need. The change was a traumatic experience for patients and staff alike. Now that these people have adopted to the condition undesirable as they may have seemed at the time, they are going to be moved around again. If a person is only mildly ill when he is committed to the Institute, the frequent changes only add to his or her problems, and caused problems with the staff. A letter received by me recently from a patient underlines my concerns.

I certainly hope that the appointment of a corrections expert to superintendent of a hospital for the mentally ill, works out favorably, but I am very skeptical at this time.

(Off Record Remarks)

On Motion of Mr. Huber of Cumberland, Re-cessed until 2:30 in the afternoon.

Recess

After Recess

Senate called to order by the President.  
Out of order and under suspension of the rules, the Senate voted to consider the following:

Papers from the House  
Joint Order

Expressions of Legislative Sentiment recognizing that: Cheryl Grant, Sheila Grant and

David Carlson of New Sweden and Craig Quist of Stockholm placed first in their respective classes for cross-country skiing races held at New Sweden, March 11, 1978 (H. P. 2266)

Greg Wardell of Stockholm has been defeated in Arrostook County High School competition and placed first for cross-country skiing in the Eastern Regional Competition, (H. P. 2265)

The Tiger AA of Portland has a distinguished record of over fifty years of community service, (H. P. 2267)

The Academy of Motion Picture Arts and Sciences has contributed greatly towards the artistic and technological excellence achieved by the motion picture industry over the past fifty years and will celebrate its fiftieth anniversary with the academy awards presentation the "Oscar Show" on April 3, 1978, (H. P. 2268)

The Parish of Saint Joseph's, which for one hundred and sixteen years has ministered the Gospel first to the French-Canadian community and now to all of the people of Old Town, is celebrating the seventy-fifth anniversary of the construction of its church building, (H. P. 2269)

Lisa Jo Ouellette of Portland exemplifies the best traditions of honesty and societal concern to be found among American youth, (H. P. 2272)

The King's Legend Racing Yacht is one of fifteen yachts participating in the Whitbread Round-the-World Race and the only yacht with Americans in the crew, and Gregory Tuxworth of Bethel is one of the Americans competing in the races; (H. P. 2274)

Come from the House, Read and Passed.

Which were Read and Passed in Concurrence.

**Joint Order**

WHEREAS, the Maine Legislature enacted the Tree Growth Tax Law in 1973; and

WHEREAS, this statute provided that the assessed value of forest land would be based upon forest productivity; and

WHEREAS, this new and innovative method of determining forest land value was anticipated to result in a current use valuation; and

WHEREAS, the Tree Growth Tax Law forest productivity methods for establishing value have resulted in per acre assessed valuations ranging from \$8.10 per acre to \$79.30 per acre; and

WHEREAS, one effect of the tax treatment afforded by statutes such as the Tree Growth Tax Law is to shift the property tax burden to other tax payers; now, therefore, be it

ORDERED, the Senate concurring, that the Joint Standing Committee on Taxation study and make recommendations to the 109th Maine Legislature regarding the Tree Growth Tax Law, Title 36, sections 571-584-A; and be it further

ORDERED, that the committee's review include, but not be limited to, the following: A review of whether the current methods for establishing stumpage values, capitalization and discount rates are adequate and appropriate; a review of alternatives to the current Tree Growth Tax Law and recommendations for modification or repeal of the current statute; a review of the current Tree Growth Tax Law and its effect on forest land owners and non-forest land owners; a review of the Tree Growth Tax Law reimbursement provisions for taxes lost by Maine cities and towns; a review of the definition of those property owners eligible to use the Tree Growth Tax Law and whether or not the mandatory or optional coverage provisions of the statute are appropriate; and a review of the adequacy of the withdrawal and penalty provisions of the current statute; and be it further

ORDERED, that the committee shall hold up to 4 public hearings in appropriate areas around the state; and be it further

ORDERED, there is allocated from the Legislative Account to the committee the sum of

\$5,000 for the purpose of employing an outside consultant, expert in the taxation of forest land; this consultant will assist the committee in its analysis of the Tree Growth Tax Law; and be it further

ORDERED, that the committee hold an initial meeting by June 1, 1978, and that it complete its study no later than December 1, 1978, and submit at that time to the Legislative Council 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 the members of the committee. (H. P. 2271)

Come from the House, Read and Passed.

Which was Read.

On Motion of Mr. Speers of Kennebec, Tabled, pending passage.

**Communications  
Committee on Judiciary**

March 16, 1978

The Honorable Joseph Sewall:

President of the Senate  
Maine State Legislature  
State House

Augusta, Maine 04333

Dear President Sewall:

The Committee on Judiciary is pleased to report that it has completed all business placed before it by the 108th Second Regular Session of the Maine State Legislature, and reports the following:

Total number of bills received	26
Unanimous reports	24
Divided reports	2

3 bills were given Leave to Withdraw  
1 bill was referred to another committee  
1 study was recommended by the Committee  
16 amendments were prepared

5 new drafts were prepared  
Public hearings were held on 12 Legislative days.

Working sessions were held on 29 Legislative days.

Respectfully,

Signed:

SAMUEL W. COLLINS, Jr.  
Senate Chairman

Which was Read and Ordered Placed on File.

Honorable May M. Ross

Secretary of the Senate

108th Legislature

Augusta, Maine 04333

Dear Madam Secretary:

House Paper 2153, Legislative Document 2167, An Act to Permit Law Enforcement Officers, Agencies and Associations to Make Limited Solicitations for Advertising in or Purchase of Certain Publications Published by Them, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

Sixty-two voted in favor and seventy-five against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Respectfully,

Signed:

EDWIN H. PERT  
Clerk of the House

Which was Read and Ordered placed on File.

**Committee Reports**

**House**

**Ought to Pass — As Amended**

The Committee on Performance Audit on Bill, "An Act to Revise the Maine Sunset Law and State Agency Rules Law. (Emergency) (H. P. 2229) (L. D. 2189)

Reports that the same Ought to Pass as

amended by Committee Amendment "A" (H-1180)

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

The Committee on Public Utilities on, Bill, "An Act to Incorporate the Vinalhaven Water District. (Emergency) (H. P. 2164) (L. D. 2173)

Reports that the same Ought to Pass as amended by Committee Amendment "A" (H-1178)

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

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

(see action later today)

**Divided Report**

The Majority of the Committee on Appropriations and Financial Affairs on, Bill, "An Act to Increase State Reimbursement for the Net Costs on Local General Assistance. (H. P. 1859) (L. D. 1922)

Reports that the same Ought to Pass as amended by Committee Amendment "A" (H-1164)

Signed:

Mrs. HUBER of Cumberland  
Messrs. MORRELL of Cumberland  
MERRILL of Cumberland

— of the Senate.

Messrs. McBREAIRTY of Perham  
HIGGINS of Scarborough  
PERKINS of Blue Hill  
MORTON of Farmington

— of the House.

The Minority of the same Committee on the same subject matter Reports that the same Ought to Pass as amended by Committee Amendment "B" (H-1165)

Signed:

Mrs. NAJARIAN of Portland  
Ms. GOODWIN of Bath  
Messrs. JALBERT of Lewiston  
CARTER of Winslow  
PEARSON of Old Town  
GREENLAW of Stonington

— of the House.

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "B" as amended by House Amendment "A" (H-1175) thereto.

Which Reports were Read.

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

Mr. MINKOWSKY: Mr. President, just a point of clarification. Are we speaking about the Minority Report on H-1165?

The PRESIDENT: The Chair would advise the Senator at the moment that we are not speaking to the Minority Report.

The Chair recognizes the same Senator.

Mr. MINKOWSKY: Mr. President, may I make an inquiry through the Chair from somebody from the Appropriations Committee if they could give us a version of both reports so we will have a better understanding which report they are talking about.

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

Mr. HUBER: Mr. President and Members of the Senate: The Majority Report on this Bill retains the formula including the relying on municipal evaluation. It would adjust the formula to .008 as posed to the .006 in the current law. This is a threshold formula under which once the town has spent a certain amount of dollars to the state of their own money, the state would come in on a 90 percent state — 10 percent local basis on general assistance.

The other report, although I have not had a chance to check the amendment, was a percentage approach in which 30 percent of general assistance caused to be borne by the state. I think that there are important differences, important policy differences in this. First of all, the threshold approach as presented in the Majority Report essentially represents insurance against in catastrophic clauses to municipality for general assistance. Under the percentage approach presented in the minority report, it may count as catastrophic general assistance and I say catastrophic in terms of the municipal budget, catastrophic general assistance clause they would still bear 70 percent of these catastrophic clause they would still bear 70 percent of these catastrophic clauses and 70 percent of the catastrophe.

Basically the Minority Report represents a revenue sharing approach where as the Majority Report, which I support, does have the advantage of imposing 100 percent local control up to the threshold and above the threshold in assuring the town against catastrophic general assistance cost.

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

Mr. MERRILL: Mr. President and Members of the Senate: The only thing that I would add to the explanation just offered by the Chairman of the Appropriations Committee, the Senator from Cumberland, Senator Huber, is that the Bill as it comes from the other Body provides that we go to a reimbursement on the basis of 30 percent or the town can opt into the present formula which is .0006 percent of the municipalities state evaluation. It provides an alternative route either under the formula which we presently work or with the 30 percent. So that would be one alternative that we face today as opposed to going from .0006 to .0003. I think that the policy question posed has been fairly clearly summed up by the Senator from Cumberland, Senator Huber. The question before us is, how do we want to help the municipalities face the cost of general assistance. Do we want to come in and help them after they have exceeded a certain effort on their own part and help them substantially with 90 percent, or do we want to help them throughout the process with 30 percent. I think that the alternative route offered really does not in the report as it comes from the House really does not change that basic philosophical question. It is obvious, I think, to anyone who thinks about it for a moment that under the majority report which is really a continuation of the present philosophy at a more generous amount that fewer communities will get the aid then under the 30 percent basis, of course, from which any community that made any appropriation at all for this purpose would get some aid.

So I think that the philosophical question before the Body is a clear one and it really does not go to the issue of how much money we should spend to help these communities. It goes to the issue of in what manner is the best manner and the fairest manner to aid the communities with general assistance.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: I made a few inquiries about this bill because living in the second largest community in the State of Maine, I want to be sure that we are treated equitably and fairly and I am just a little apprehensive exactly as to what the majority report is doing. From the statistics I was able to rally up since we recessed under the original formula in 1974, 50 percent of the State's share of general assistance was figured into this particular proposal which was about 240 communities getting help. If I understand it correctly.

If we go to the point .0006 formula for 1978, less than 20 percent of the communities will be receiving assistance. Under the .0003 formula,

110 communities will get assistance which is the proposal I believe Senator Huber was addressing himself to. Now I tried to get an evaluation exactly what effect would have upon my community and I guess I have to look at it from two different points of view, maybe from the philosophical point of view as Senator Merrill from Portland has emphasized but the rough estimate of what it would mean to the City of Lewiston under the .0003 formula will be roughly about \$86,947. If we use the 30 percent formula, which I believe is what the other Body has advocated, we would be getting about \$63,900, but I guess I am looking at the long term on this entire thing instead of one short term as proposed in the majority report. And this is one reason why I think I would definitely vote against the majority report based upon the facts that have been presented to me at the present time unless other statistics can be brought forth to change my feeling about this.

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

Mr. MERRILL: Mr. President and Members of the Senate: I do not know exactly how to respond to the previous speaker, my good friend, the Senator from Androscoggin, Senator Minkowsky. If I understand his statistics correctly, his community does better under the majority report than the minority report.

But he is concerned about the long range implications. I do not know what the long range implications he is talking about are, but it seems to me that the fairest way to go with reimbursement is to provide a substantial, and I am talking about what we have here 90 percent reimbursement after a community has gone over certain threshold of commitment themselves. Some communities like the City of Lewiston bear general assistance cost for many people who have not been residence of that community for a long period of time and they are attracted to cities like the City of Lewiston because of the services that it provides as opposed to the rural areas and they come to these cities and that puts a great mill rate effort on cities like the City of Lewiston and many of the surrounding towns and by going with the formula like the one we are talking about maintaining here but making more generous, it recognizes the fact and because it recognizes that fact, the City of Lewiston, and I would say with all candor, the City of Portland, benefits from this sort of an approach in the long run I feel, and I think that for that reason, I have supported continuation with the present philosophy of reimbursement.

I do not want to say that I am locked into that. If that is the only way to do it, but to me it seems to be the fairest way to do it. Say to the communities you make your own effort. You do all that you can. When you get over a certain threshold then we will come in and provide you with this help, and I think that recognizes the fact that some communities have this extreme burden upon them.

Now I have talked about the situation with the Lewistons and the Portlands. There is another situation which you may want to consider. Consider that it is a small town in Aroostook or Cumberland County or in Washington County and somebody in that very small town has some catastrophic illness befall them and that cost a great deal when compared to the meager resources that are available through property taxation in that town. Under the formula advocated by the majority once the town has made that effort at .0003 then the State will be helping out with 90 percent of the cost above and beyond that. Whereas, if you take this other philosophy this town could have a very exceedingly high burden when translated in terms of percent of evaluation that they would have to carry, whereas the town next door would also be getting 30 percent when in fact they maybe making an effort that is equal only to .0001. And so I think that this formula is a good one. When we had the Bill origi-

nally to take this down to .0002 several municipalities came and testified. I know that the City of Portland did. I think that the City of Lewiston was represented and it there was no, anyone of the witnesses that testified that the formula was that the basic idea of the formula was the threshold concept, was not a good one. In fact, witnesses from several municipalities, including me, my own, testified that the formula was a good one and that the philosophy that it embodied was a proper one.

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

Mr. MINKOWSKY: Mr. President, just to a point further of clarification insofar as the minority report accepted by the other Body. The Senator from Cumberland, refers to the threshold and I was just wondering about that small town that he is referring to up in Aroostook County such as the Town of Houlton that did face a catastrophic situation as I understood. Under the Report "B", H-1165, there was a stipulation there that they use the formula of the 30 percent formula of all equal of all general assistance cost would be shared by the state, but in addition to that, the .0006 formula plus a 90 percent thereafter would come into play to give additional assistance to that particular community and this is why I was leaning more towards the other report Mr. President.

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

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

The PRESIDENT: A Division has been requested.

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

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I would pose a question through the Chair to any member of the Appropriations Committee, I would just ask if we adopt the majority report does it mean that towns and cities are going to have to come back again next year to change the formula?

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

The Chair recognizes the Senator from Cumberland, Senator Huber.

Mr. HUBER: Mr. President and Members of the Senate: I think that one of the objections to the formula based on municipal evaluations is the Legislature has not reviewed this as frequently as it should in light of increasing evaluations. This may be a problem, I think it is something that the Legislature should consider as a more frequent review of the evaluation formula with a percentage approach as presented to the minority report this would not be a problem. However, I think that the policy implications of switching the threshold concept to, what amounts to a revenue sharing formula and losing the insurance value of this program outweighs the benefits of the in effect automatic adjustment presented by the minority report. I think that the Legislature can bear in mind that in light of increasing evaluations it should review the evaluation base formula, but I do not think that this is a problem with the formula itself, it is a subject the Legislature should investigate on a more frequent basis.

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

Mr. MERRILL: Mr. President and Members of the Senate: Certainly the Senator from Cumberland, Senator Conley, has touched on one of the problems that we have in any area where we try to measure what the state does in terms of state evaluation. Certainly we have this problem in the area of education. We constantly have to make adjustments as a result of that.



I think probably the best long term solution to this problem, in my own opinion, would be to have a report made to every Legislature at the beginning to make a recommendation as to what the mill rate threshold should be, so as to maintain on average some constant percentage level of funding. In other words, lets say that we decided that we wanted on average throughout the state to be funding 30 percent of the cost of general assistance then the recommendation could be made every two years as to what threshold mill rate ought to be suggested so that we would end up near that percentage. Some sort of regular system of adjustment ought to be part of the law at least a recommendation in that regard, but I think that the fact that we have to make adjustments, does not negate the necessity for us to consider the fact that communities are faced with very, very different burdens in the areas of general assistance when that burden is measured against the evaluation of the community and I hate to see that principle lost because as I said in the cases of the Lewistons and the Portlands and some of the very small communities is a significant difference we are talking about.

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

Mr. CONLEY: Mr. President and Members of the Senate: I have a difficult time in all honesty trying to understand the general assistance. I know that many municipal budgets in the town budgets could hit extremely hard because they are mandated by the United States Supreme Court to provide general assistance and I do not think that there is any one community, particular community as large as mine in the state where we find many people coming to the community because they feel that the opportunities are greater for them by being in a larger community, the fact that there is perhaps more job employment available or perhaps available, even though I read in the newspaper last night that we are presently have something like 11 percent unemployment rate.

It does seem to me that again we are extremely late in the session and it seems to me that the minority report that was adopted in the other Body with the House Amendment on it does lock the state into a situation of, I guess it is 30 percent plus the option of, the present formula I guess, which is .0006 and that while in just reading the statement of fact, it says that the amendment will enable communities to select one or two alternate methods for state reimbursement of general assistance cost. In the first mess it is a continuation of the current formula of .0006 of the municipalities state evaluation and under this method, 90 percent of all the expenditures in excess of this threshold level are reimbursed and the second method is 30 percent state reimbursement of all local general assistance cost. The amendment would provide state assistance to all communities with general assistance cost and less than 20 municipalities will be helped if the current .0006 formula is retained.

I know that in my community today that if we continued to live under the .0006 formula and the reason that I point this out is because if we adopt the majority report of the Committee, we may very well end up in non-concurrence and I do not want to see a bill that is going to try to assist and help not only my community but my colleague the good Senator from Portland, Senator Merrill has stated, a lot of small communities that are being presently hurt. It is my understanding that the House Amendment that is on the minority report gives extreme relief to those areas and particularly in Aroostook County again as stated by my colleague from Portland, Senator Merrill. It just seems to me that if one thing we should do, we should lock ourselves in so communities know exactly what they are going to be receiving and perhaps a study order should be introduced during this session to allow the

Committees, some Joint Standing Committee to take a good hard look at what is happening on general assistance.

I stated that with the 11 percent unemployment in the City of Portland, actually general assistance is going down. It is decreasing and I will tell you that we have under the state we are mandated to establish welfare guidelines, they have to be approved by the division of human services. So the thing is that they are pretty rigid and it almost becomes impossible in a sense to be able to avoid having to pay general assistance, but the toughest cookies in the country, I think, sitting on the welfare committee of the City Council and yet they comply with what I believe to be the intent of the Supreme Court decision and also the guidelines as established by the City Council and approved by the Division of Human Services.

It just seems to me that if we want to give municipalities and if we want to give communities the opportunities of knowing exactly where they are going to be standing next year, then I would. Personally I intend to vote for the minority report for the adoption of the House Amendment that gives relief to all communities.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of accepting the Majority Ought to Pass as amended by Committee Amendment "A" Report please rise in their places to be counted.

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

25 Senators having voted in the affirmative and 7 Senators in the negative, the majority Ought to Pass as amended Report by Committee Amendment "A" does prevail.

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

On Motion of Mr. Merrill of Cumberland, and under suspension of the rules, the Bill Read a Second Time.

Which was Passed to be Engrossed, as amended, in non-concurrence.

Sent down forthwith for concurrence.

The PRESIDENT: In reference to, Bill, "An Act to Revise the Maine Sunset Law and State Agency Rules Law." (Emergency) (H. P. 2229) (L. D. 2190), is it the pleasure of the Senate to suspend its rules to reconsider its action whereby this Bill was assigned for Second Reading the next Legislative Day? It is a vote.

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

Which was Passed to be Engrossed as amended, in concurrence. Sent down for concurrence.

(see action later today)

The PRESIDENT: In reference to, Bill, "An Act to Incorporate the Vinalhaven Water District." (Emergency) (H. P. 2164) (L. D. 2173) is it the pleasure of the Senate to suspend its rules and reconsider its action whereby this Bill was assigned for Second Reading the next Legislative Day? It is a vote.

Is it now the pleasure of the Senate that under suspension of the rules, this Bill be given its Second Reading? It is a vote.

The Bill Read a Second Time. The Bill, as amended, Passed to be Engrossed in concurrence. Sent forthwith to the Engrossing Department.

#### Enactors

The Committee on Engrossed Bills reports as truly and strictly engrossed the following: "An Act Relating to the Place of Filing Under the Uniform Commercial Code. (H. P. 2232) (L. D. 2190)

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

The PRESIDENT: The Chair recognizes the

Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, is the Senate in possession of L. D. 2189?

The PRESIDENT: The Chair would answer in the affirmative.

Mr. SPEERS: Mr. President, under suspension of the rules, I move that the Senate reconsider its action whereby this Bill was Passed to be Engrossed.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the rules be suspended and the Senate reconsider its action whereby this Bill was Passed to be Engrossed. Is it the pleasure of the Senate? It is a vote.

On Motion of Mr. Speers of Kennebec, Tabled until later in Today's Session, pending Engrossment.

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

#### Paper From the House Non-concurrent Matter

Bill, "An Act to Revise Maine's Aeronautics Laws." (H. P. 2055) (L. D. 2119)

In the Senate, March 14, 1978, Passed to be Engrossed as amended by Committee Amendment "A" (H-1132), in concurrence.

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" and House Amendment "B" (H-1201), in non-concurrence.

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

Mr. SPEERS: Mr. President, I wonder if the Secretary could read which committee this bill came from.

The SECRETARY: The Bill was filed by the Joint Standing Committee on Transportation under Joint Rule 17.

The Senate voted to Recede and Concur.

#### Order

An Expression of Legislative Sentiment recognizing that: Rick Mansir of Randolph, student of Gardiner Area High School, has finished third in the 1978 New England School-boy Wrestling Tournament, (S. P. 754) is presented by Senator Chapman of Sagadahoc.

Which was Read and Passed.

Sent down for concurrence.

#### At Ease

#### Orders of the Day

The President laid before the Senate:

House Report — From the Committee on Taxation — Bill, "An Act Relating to the Taxation of the Unorganized Territory." (H. P. 2059) (L. D. 2117); Ought to Pass in New Draft (H. P. 2139) (L. D. 2159)

Tabled — Earlier in the Day by Senator Wyman of Washington.

Pending — Acceptance of Report.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: I move the pending question.

The PRESIDENT: The pending question is the acceptance of the Ought to Pass in New Draft Report of the Committee. Is it the pleasure of the Senate? It is a vote.

The Bill, in New Draft, Read Once.

House Amendment "B" Read.

House Amendment "A" to House Amendment "B" Read and Adopted.

House Amendment "B" as amended Adopted in concurrence.

Under suspension of the rules, the Bill Read a Second Time. The Bill, as amended, passed to be Engrossed, in concurrence. Sent down forthwith to the Engrossing Department.

The President laid before the Senate:

Bill, "An Act to Restore Matching Funds to the Maine Criminal Justice Planning and Assistance Agency." (Emergency) (H. P. 1860) (L. D. 1923)



Tabled — Earlier in the Day by Senator Pierce of Kennebec

Pending — Passage to be Engrossed

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

Mr. PIERCE: Mr. President, I move that we reconsider our action whereby we adopted 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 would now present Senate Amendment "A" to Committee Amendment "A" (S-584) and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, now offers Senate Amendment "A" to Committee Amendment "A" and moves its adoption. The Secretary will Read Senate Amendment "A".

Senate Amendment "A" (S-584) Read and Adopted.

Committee Amendment "A" as amended, Adopted.

The Bill, as amended, Passed to be Engrossed in non-concurrence. Sent forthwith for Concurrence.

#### At Ease

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

Bill, "An Act to Revise the Maine Sunset Law and State Agency Rules Law." (Emergency) (H. P. 2229) (L. D. 2189)

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

Mr. MORRELL: I present Senate Amendment "A" to L. D. 2189 (S-587) and move its adoption.

The PRESIDENT: The Senator from Cumberland, Senator Morrell, now offers Senate Amendment "A" to L. D. 2189 and moves its adoption. The Secretary will Read Senate Amendment "A".

Senate Amendment "A" (S-587) Read and Adopted. The Bill, as amended, Passed to be Engrossed in non-concurrence. Sent down forthwith for concurrence.

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

#### Paper from the House Non-concurrent Matter

Bill, "An Act to Make Additional Corrections of Errors and Inconsistencies in the Laws of Maine." (Emergency) (S. P. 748) (L. D. 2199)

In the Senate, March 17, 1978, Passed to be Engrossed as amended by Senate Amendments: "A" (S-565); "C" (S-567); "E" (S-569); "F" (S-570); "G" (S-571); "H" (S-572); "I" (S-573); "J" (S-574); "K" (S-575); "L" (S-576); "M" (S-577); "N" (S-578); "O" (S-579); and "P" (S-580).

Comes from the House, passed to be Engrossed as amended by Senate Amendments: "C" (S-567); "E" (S-569); "G" (S-571); "H" (S-572); "I" (S-573); "J" (S-574); "L" (S-576); "M" (S-577); "N" (S-578); "O" (S-579); "P" (S-580); and "K" (S-575); as amended by House Amendment "A" (H-1204) thereto; and House Amendments: "A" (H-1184) "F" (H-1189) "G" (H-1190) "H" (H-1191) "K" (H-1194) "L" (H-1195) "M" (H-1196) "O" (H-1198) "P" (H-1202) "Q" (H-1203) "R" (H-1206) "S" (H-1207) and "T" (H-1208) in non-concurrence.

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

Mr. CONLEY: Mr. President, I would like to pose a question through the Chair to any Member of the Judiciary Committee that would like to respond.

I just wonder if the Right to Work Legislation may be incorporated somewhere in one of these amendments?

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

Mr. COLLINS: Mr. President, I can assure the good Senator that his apprehension is not well founded, a Sub-Committee of the Judiciary Committee has reviewed all of the appendages to the Errors Bill. There are at least three that we are unhappy about, but in weighing the tribulations of trying to deal with our unhappiness as against prolonging the Legislative process and possibly opening the Bill to a lot of new incursions, we decided to exercise caution and to recommend that the Bill go along with a Recede and Concur Motion.

I would like to, in this regard, to say that as often as the case with the Errors Bill new discoveries keep filtering in even as I stand here and one thing that was discovered about 10 minutes ago was that the County Budget for Knox County, which is my county, in Chapter 68, of the resolve of 1978 has misnumbered and mislabeled an item, where it says that 1065 Register of Deeds, it should say 1070 Register of Probate. Well it is such an obvious error that I am not going to back the Bill up. I am saying this on the record so that if someone attacks the thing they will know that Legislative intent is to make the obvious correction in that Budget, and I believe that there may be one or two others in that category but we just do not feel that it is worth backing the Bill up and doing a lot of things over for such a trivial sort of little thing. Therefore, Mr. President, I move that the Senate Recede and Concur with the House.

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

Mr. JACKSON: Mr. President and Members of the Senate: The good Senator has brought the attention of York County having a problem in an account area and it was also brought to my attention earlier in the day in further deliberations with the good Senator from Knox, Senator Collins, we decided to do the same thing that he just did, it is dealing with an appropriation for Lincoln County in the County Budget and the shelter of the Lincoln County Animal Shelter, and we just would not want that to happen down there with the expansions of new programs. We worry about it. I do not think that it is time for the counties to get involved in that area. But I would like to clarify it. The word should be Lincoln County Animal Shelter.

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

Mr. HICHENS: Mr. President, I cannot justifiably vote to recede and concur with the House. I understand that we are near the end of our Session and realize the importance of trying to come to an agreeable computation between both the House and the Senate, but I still cannot go along with passing amendments that are substantive changes that are not errors and inconsistencies, and I have to reply to the people back home. Time and time and time again we go back home and people say well when did this come into effect and I will say well it came in under the Errors and Inconsistencies and in all fairness I did not have time to go over them all. Last session or the early part of this session we were correcting things that were changed in our Errors and Inconsistencies last year that were not errors, they were just substantive changes. And I do not care if I have to stay here and explain that we had to go two or three extra days to keep these things in order, I want to go home with a clear conscience that I voted on the things that I believe in and nothing was pulled over my eyes.

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

Mr. LOVELL: Mr. President and Ladies and Gentlemen of the Senate: When the good Senator from Knox, Senator Collins, tells me that the Judiciary Committee has gone over these various amendments that satisfies me enough.

I have great confidence in Senator Collins and his Committee. So I would go along to recede and concur.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President and Members of the Senate: It does not take much to confuse me and I am thoroughly confused now because the good Senator from Knox said that we will proceed with caution. Now I do not have a dictionary and I am not sure what caution means, I thought I knew, but in the next breath he says we will move right ahead and pass this bill, and without a good many of us knowing what is in it. Now I have a lot of confidence in him, but I get all mixed up on this word caution, whether it means go ahead full speed or whether it means to be careful and take our time and find out what we are doing.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Knox, Senator Collins, that the Senate Recede and Concur with the House.

The Chair will order a Division.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I wonder if the good Senator from Knox, Senator Collins, might identify those particularly few amendments that he does have some real problems with in regard to this Bill.

The PRESIDENT: The Senator from Kennebec, Senator Speers, has posed a question through the Chair to the Senator from Knox, Senator Collins, who may answer if he so desires.

The Chair recognizes that Senator.

Mr. COLLINS: Mr. President, in response to the question from the Senator from Kennebec, Senator Speers, there is a new Commission about agricultural lands and one amendment, I guess that it is Amendment "M" added three members to that commission. They may or may not be useful, I have no judgment about that but that it clearly was an addition that did not seem to be an error or an inconsistency.

The other items had to do with the number of signatures required on a nomination petition. There are a couple of those. One is House Amendment "Q" which said that for a candidate for a county commissioner in any county having 50,000 population or less at least 50 and not more than 75 voters lowers the number, and the explanation offered was that we now have commissioner districts within a county so that the number of people effected is less, and they thought that this seemed to be rather proportional taking a Senatorial District as one extreme and a House District as another. So another one that is similar changing from 75 to 50 signatures. This is a substantive change but it did not seem to us to be that significant and it probably will not effect this year's performance anyway since April 1, is the filing deadline and if the Governor takes 10 days that frequently are allotted, it will be April 1 probably by the time this has effect.

The PRESIDENT: The Chair will order a Division.

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

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: I request a Roll Call.

The PRESIDENT: A Roll Call has been Requested.

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

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

One-fifth having arisen, a Roll Call is ordered.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I wonder if the comments by the good Senator from York, Sen-

ator Hichens, might reflect a concern that could possibly be addressed by a motion simply to recede?

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

Mr. HICHENS: I now move that we recede.

The PRESIDENT: The Senator from York, Senator Hichens, now moves that the Senate recede.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I request a Division and ask the Senate to vote no.

The PRESIDENT: The Senator from Knox, Senator Collins, has requested a Division.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, a parliamentary inquiry, is it not a fact that a motion to recede and concur is the visible motion. That at the request of any Senator that the motion may be put separately?

The PRESIDENT: The Chair would advise the Senator from Kennebec, that the motion to recede and concur is the stronger of the two motions.

The Chair apparently misses the intent of the question.

Mr. SPEERS: Mr. President, it is my understanding that the motion to recede and concur is in effect two motions which are usually placed together but at the request of any Senator they may be placed separately.

The PRESIDENT: The Chair would answer in the affirmative, the motion to recede is stronger than the motion to recede and concur. The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, in view of the light that has been shed by the leaders of the Senate, I withdraw my objection. I would urge the Senate to Recede and I will then move to concur. May I ask the Chair if that would accomplish the same parliamentary objectives that I first expressed?

The PRESIDENT: The Chair would advise in the affirmative unless in the interim period between the Senator from York's motion were that accepted, and your motion, other action was taken on the Bill.

Mr. COLLINS: One other parliamentary inquiry. Namely, that if upon the passage of the motion to recede, the motion to recede and concur were next to follow would that preempt the offering of individual action on each amendment in the Bill?

The PRESIDENT: The Chair would advise the Senator that he might make the motion to concur if the motion to recede prevails. However, if the motion to concur were defeated, then the Bill would be in the posture to be amended.

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

Mr. KATZ: Mr. President, if the motivation of the Chairman of the Judiciary Committee is to get action on this Bill now and get it down to the Engrossing Department, the only logical approach is the motion to recede and concur and the motion to recede takes us out over some thin ice that I do not anticipate that he wants to get into. So I would urge the Senate and the Chairman in particular to vote against the motion to recede.

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

Mr. MERRILL: Parliamentary inquiry. If the motion to recede singly is defeated, is the motion to recede and concur then in order?

The PRESIDENT: The Chair would answer in the negative, it is not in order.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, with humility, I withdraw my bad advice.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Hichens, that the Senate recede.

A Division has been requested.

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

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

27 Senators having voted in the affirmative and 4 Senators in the negative, the motion to Recede does prevail.

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

Mr. COLLINS: Mr. President, I move that the Senate Concur with the House.

The PRESIDENT: The Senator from Knox, Senator Collins, now moves that the Senate Concur with the House.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: I ask for a Division and a Roll Call please.

The PRESIDENT: The Chair will advise the Senator from York, Senator Hichens, that the only Senator in this Body authorized to make that Motion is the Senator from Somerset, Senator Redmond.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: I, like the good Senator from Knox do not want to go out on thin ice, so I will ask for a Roll call.

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

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

Obviously, less than one-fifth having arisen, a Roll Call is not ordered.

The Chair will order a division, however.

The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President and Members of the Senate: I know that the hour is late but I do not see the objection to discussing these amendments. I do not think that there are that many in which we are inconsistent with the House. I can see the way you are reacting and perhaps others here, but I have to concur with the Senator from York, Senator Hichens, that as I look down through the Senate Amendments apparently there are only about three that were not adopted in the House. I do see a handfull of House Amendments here but I am not convinced that they are not worth discussing now and I think that we should discuss them. I would vote against the pending motion.

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

Mr. SPEERS: Mr. President, I will be brief but I in all seriousness must agree with the good Senator from Cumberland, Senator Hewes, and I do not see any reason why this Body ought to in a wholesale manner adopt these amendments that are presented down to us. I looked through them very quickly, I see amendments with regard to denturist. I see amendments with regard to the billboards and I am sure that there are explanations with regard to these matters, but I think that this Body ought to hear them.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from Knox, Senator Collins, that the Senate concur.

The Chair will order a Division.

Will all those Senators in favor of the motion to concur please rise in their places to be counted.

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

16 Senators having voted in the affirmative and 15 Senators in the negative, the motion to concur does prevail.

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

Mr. SPEERS: Mr. President, I would like to point out to this Body that there are several joint rule changes that we will be discussing a

little bit further on. Perhaps a more easily identifiable method to speed up the sessions that we will be presented with in the future is to adopt another joint rule which would allow just one Bill to be introduced into the Legislative process and the Bill to be Entitled Errors and Inconsistencies and then everyone can get up and take a whack at it as it goes by.

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

Mr. CONLEY: Mr. President, it is my understanding that we just found a way to expedite the Legislative Process and that is through the Errors and Inconsistencies Bill.

Under Suspension of the rules, the Bill sent forthwith to the Engrossing Department.

On Motion of Mr. Huber of Cumberland, Recessed until the Sound of the Bell.

Recess

After Recess

Senate called to Order by the President.

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

#### Paper from the House Joint Order

ORDERED, the Senate concurring, that when the House and Senate adjourn, the House adjourn to 9:30 in the morning, and the Senate adjourn to 10:00 o'clock in the morning on Tuesday, March 21, 1978. (H. P. 2286)

Comes from the House, Read and Passed. Which was Read and passed in Concurrence.

#### Orders of the Day

The President laid before the Senate:

House Report — From the Committee on Taxation — Bill, "An Act to Provide for Refunding of Municipal Claims under the Maine Tree Growth Tax Law." (H. P. 1969) (L. D. 2049); Ought to Pass with Committee Amendment "A" (H-1161)

Tabled — Earlier in the Day by Senator Wyman of Washington

Pending — Acceptance of Report

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: I move the pending question.

The PRESIDENT: The Senator from Washington, Senator Wyman, now moves the Senate Accept the Ought to Pass, as amended, Report of the Committee. Is it the pleasure of the Senate? It is a vote.

The Bill Read Once.

Committee Amendment "A" Read.

House Amendment "A" Read and Adopted in concurrence.

House Amendment "B" Read and Adopted in concurrence.

Committee Amendment "A" as amended, Adopted.

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

Which was Passed to be Engrossed, as amended, in concurrence.

Sent forthwith to the Engrossing Department.

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

#### Divided Report

Seven members of the Committee on Education on, Bill, "An Act to Insure Local Control Over Education Policy." (S. P. 708) (L. D. 2155)

Report in Report "A" that the same Ought to Pass in New Draft under new title: Bill, "An Act to Clarify the Collective Bargaining Laws for Teachers and to Establish a Commission to Study the Problems Relating Thereto" (S. P. 752) (L. D. 2203)

Signed:

Messrs. KATZ of Kennebec  
USHER of Cumberland  
PIERCE of Kennebec

— of the Senate.

Messrs. FENLASON of Danforth  
MITCHELL of Vassalboro  
PLOURDE of Fort Kent  
BAGLEY of Winthrop

— of the House.

Four members of the same Committee on the same subject matter,

Report in Report "B" that the same Ought Not to Pass.

Signed:

Messrs. WYMAN of Pittsfield  
CONNOLLY of Portland  
BEAULIEU of Portland  
BIRT of East Millinocket

— of the House.

One member of the same Committee on the same subject matter,

Reports in Report "C" that the same Ought to Pass as amended by Committee Amendment "A" (S-585)

Signed:

Mr. LEWIS of Auburn

— of the House.

One member of the same Committee on the same subject matter,

Reports in Report "D" that the same Ought to Pass as amended by Committee Amendment "B" (S-586)

Signed:

Mr. LYNCH of Livermore Falls

— of the House.

Which Reports were Read.

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

Mr. KATZ: I move acceptance of the Report "A" in New Draft.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that the Senate Accept Report "A" Ought to Pass in New Draft Report of the Committee.

The Senator has the floor.

Mr. KATZ: Mr. President, this Bill, which is one of the most complex with which I have ever dealt was introduced late into the session, was one of the, I think, the last Bill that we heard, and we heard it partly while the Senate was in Session. We had a public hearing lasting something over three hours. It was a divisive kind of hearing. A hearing which raised many more issues than those which were included in the Bill. Subsequent to the public hearing, I believe the Committee of Education held five very long working sessions. Our doors were open, our sessions were well attended. We were favored by the presence of at least one and perhaps two members of the Maine School Management representing the Local Boards of Education. We always had somebody from the Maine Teachers Association present. There were Legislators and a lot of interested parties.

We took our work extremely seriously because of two things.

In the first place, this Bill is of great importance to the Governor and he has cast a great amount of thought and attention to the drafting of the Bill and certainly is supportive of its implementation. The second place, it pertains to the school boards, the elected school boards in all the school units all over the State, and, consequently, it impacts on the quality of teaching that our 240,000 plus kids get in a classroom.

Labor Law is a very, very specialized field of all the attorneys present in the Legislature, I would suspect that there may be one or perhaps a handful who are qualified to deal with Labor Laws. I am not one of those persons. So we set about our task and I think that it is important and I want to apologize, it is after 6:20 but the record has to be very clear as to the good faith effort that the Committee made to deal with this problem. We were concerned that we were getting the Bill too late in the session to deal with it adequately but we gave it everything we had and the fact that it is now appearing on the

calendar for the first time at 6:22 in the afternoon after a very, very long day is indicative of the fact that it was a very heavy burden to carry at this stage of the session.

We attempted to identify issues that were raised during the public hearing and during our work sessions. We identified an issue pertaining to probationary teachers. What were their rights. To what extent should they have their rights expanded by collective bargaining. How about nonrenewal and dismissal of teachers. How about grievance arbitration, what were the implications for local school boards. How about contract arbitration. And somebody in the Committee immediately raised the question and it was paramount for a while, what is the desirability of attempting to make any change at this stage of the session without adequate knowledge and notice? We dealt with the arbitrator himself. The arbitrator always was pictured as an out-of-stater probably smoking a cigar who came into the community and forced the wishes of the locally elected school board people, made an award contrary to their interests then he picks up and he leaves town and he leaves local people to stew in the mischief which he created. Another phony problem is the question of the impact of educational policy. The establishment of Educational Policy clearly is a prerogative of the locally elected school board, but when it impacts on the working conditions of the teacher, is it not negotiable item.

Well after more hours than I count, a Committee of which I am extremely proud, a Committee which has done some splendid things in drawing together to arrive at a consensus to present to the Legislature a unified point of view which the Legislature then can adopt this Committee fell completely to pieces. We have never had in my time in the Legislature four reports out of the Committee on Education. It was a failure in a very real respect, but it was a failure not born of indifference or playing games or lack of concern, it was a failure caused by the complexity of the problem and the fact that we sensed a series of icebergs floating by us. We could see the tips of the iceberg but we could not properly radically identify the implications of the issues upon which we were being asked to act.

The report that I ask you to accept here tonight is one which I supported. It deals with only one narrow problem of collective bargaining. It deals with the question of what happens when arbitrators get involved in making arbitration awards on the impact on educational policy and working conditions which probably should not have been a negotiable item at all. When the arbitrator infringes upon the authority of the local school boards right to declare educational policy. And the approach that the majority of us, yes it is the majority of the Committee at that supported, involves the Labor Relations Board and it says that when a group of teachers and management go through a series of steps in an orderly process for mediation to fact finding to binding arbitration, that if either aggrieved party finds that the arbitrator is about to make an award based upon something which is suspect and is not clearly not negotiable with respect to the impact of educational policy, the Labor Relation Board would make a determination prior to any final decision by the arbitrator.

There are those who have claimed that is sophisticated in appearance that really does not do very much. I am not quite sure how sophisticated it is because there is very little sophistication on the Educational Committee with respect to Labor Law, but it was an honest attempt to deal with one of the issues that we had before us which we felt capable of dealing with.

The report has a second part. And the second part establishes a Commission. It is really a call to help. It is called a Commission for the Collective bargaining of Teachers and I think that I am going to take up more than my usual

share of time tonight because there is no question that the record of this debate will be researched by people and I want no mistake as to the intent or good faith of the parties involved.

The emergency preamble points out the fact that serious questions have been raised about collective bargaining in general, not just the Bill, but about the whole broad spectrum of collective bargaining, and indeed a good deal of the public hearing, a good deal of our mail was not zeroing in specifically on the subject of the Bill, but showed a wide-spread feeling of frustration about collective bargaining itself. And collective bargaining really is not on trial in this particular Bill. It makes notice of the fact that sound collective bargaining in order to be effective has to protect both the right of the local school board to make public policy but it also has to effect the rights, the bargaining rights of teachers because that is what collective bargaining is all about.

And it also points out that in case that immediate review of all these laws would be extremely helpful and beneficial for the people of the State of Maine and the school system in particular. And then we assigned some tasks to this Commission and the tasks that we have assigned to this Commission go quite broadly beyond the Bill. It asks the Commission to take a look at the impact of existing collective bargaining as it effects teachers. To assess the impact of collective bargaining as it effects the policy making ability of the elected school board.

One thing that we needed more than anything else and we had to an inadequate degree was hard information. And we did not have any information of adequate scope to let us sink our teeth into and we are asking for the collection on information relating to the frequency and the nature of the causes of impasse in the State. I stand before you a little tired having done a considerable amount of work and I cannot quote any meaningful figures to you as to how many teachers have been fired, now many teachers were fired by the school board and reinstated by the courts or by arbitrators. I cannot give you any of these figures because what has been happening in the State which has caused this Bill to be before us is not documented in a statistical fashion. We just do not know.

Well and so on and so on, there was an appropriation on the Bill. Sometimes I understand an appropriation is put on a Bill in order to give it the kiss of death, so that it will die on the appropriations table. That decision will not be mine, but I think that it is absolutely unjust and bad government to ask the Maine Labor Relations Board to assume this broader scope of responsibility without being given \$14,500 to do it. It is a modest figure. I think that it is phony baloney to ask a government agency to take on more work, more work, more work within the constraints of whatever dollars we have. The Commission for Collective Bargaining is given \$10,000. I do not know if this is enough. I do not know if it is too much, but it was a honest figure that was arrived at trying to do the right thing.

Four members of our Committee threw their hands up in the air not through the shirking of duty but because of complete frustration and said this Bill should not pass. One member of the House on the Committee said that the Bill raised so many questions that about as far as she would wish to go was the establishment of the Commission. And one member my good friend and colleague House Chairman Representative Lynch, supported another point of view which is most acceptable to management and that is in Report "D". As I see the amendments in front of me here today that will be offered by Senator from Penobscot, Senator Trotzky, as I understand the procedure in front of us tonight that if the majority report is accepted after the first reading of the Bill, the issues raised by Representative Lynch in his

report will be raised through the amendment process. So that the Senate will not be stopped from considering the whole gambit of problems that faced the Committee on Education. And I wish you well as you grapple with one of the most difficult questions of the Session.

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

Mr. TROTZKY: Mr. President and Members of the Senate: I rise first to praise the leadership of the Senator from Kennebec, Senator Katz, for his fine leadership on the Educational Community in the State of Maine for many years. Because of his efforts in the field of education the children of our State are better off today. I have always looked to Senator Katz, the Senator from Kennebec, Senator Katz, for guidance in education and in most cases I believed and followed his guidance. However, today, I rise in opposition to his position on this bill and support Report "D" signed by Representative Lynch of Livermore Falls.

I would like to start off first by reading a letter which comes from a school board member which I think probably expressed the problem that exists today in the State of Maine. It starts off like this. "I hope that you will do me the courtesy of reading this letter because as a member of a small town school board who is daily accountable to the taxpayers, I would like to share some of my concerns. What bothers me is not the use but the abuse of the current law. The Maine Teachers Association would lead you to believe that all school boards are unreasonable. I am sure that some are, so are some of the representatives of the Teachers Unions. Both sides need protection but there are some grave problems with the current law.

One is in the area of money, we spend \$25,000 to \$30,000, or one percent of our budget last year on services related to negotiations. In part that was caused by the unions insistence on going the full legal route of negotiations with fact finding, mediation, and arbitration. I learned that negotiating in good faith means giving the union everything it wants. If a school board tries to cling to some of its positions there are outraged howls from the public about its unreasonableness and complaints that the professional negotiators is the problem. That one percent of our budget could mean more teaching positions or more services for children. However, we cannot risk not having professional advice because of the games of collective bargaining which the MTA knows well how to play.

Another real problem is time. In the two years that I have been on the school board we have spent at least half of our time on labor related issues. One of the reasons I am so strongly in favor of Section "C" of L. D. 2144 is that in negotiations last year the union came in with 27 pages of language. We spent many sessions explaining and nit picking over what was or was not educational policy." Then she goes on "Just cause becomes an infinitely expandable and exploitable concept. Many school systems have been forced to accept just cause dismissal because arbitrators have interpreted "may" to mean "must."

In the whole bargaining process, the only people who are unpaid or receive only token stipend and have nothing to gain are the members of the school board. Whatever the settlement the taxpayers will be angry because it is too high. A school board member must justify his feelings that teachers too need to eat. The union will be angry if it does not get everything it wants.

And then one deal with the issue of staff moral. If one has any energy left over, one tries to address the real reason we are here to serve and better the needs of the children. No wonder it is becoming more and more difficult to get people to run for office or to run a second time. When people concerned for education bow out the anti-teacher group comes in and asides a

further polarize. Who is hurt? The kids.

There are still many of us to stubborn to give up, but we do need help. School boards and teachers should be encouraged to work together to improve local education, not to spend half their time with horns locked over union issues.

This Bill which was introduced by the Governor and which I personally feel is very important also, or I would not have sponsored it as two parts. The first part dealt with just cause and I would like to explain what that means because I think that many people are not certain what that means. Just Cause is a concept that we all believe in. We believe that a person should not be fired from a position without just cause. It is a good principle as someone from the Portland School System came in and stated at the hearing, just cause is a principle without standards.

And the history of the Bill as it came into the last session, was like, starts like this. The School Committee of the Town of Winslow was negotiating with the Winslow Education Association, the teachers representatives. In their negotiations there was an arbitrator and the arbitrator put just cause into their contract. In other words, you could not fire a teacher without that third party, the arbitrator, being there to decide there was just cause to fire the teacher. The Board appealed to the Superior Court. The Superior Court upheld the board and ruled that the arbitrator exceeded his authority. At that time the Maine Teachers Association came to the Legislature. They lost in the courts and they decided that they would try to win in the Legislature. The Legislature in the last session passed a Bill that said that just cause for dismissal or non renewal may be a negotiable item, may be a negotiable item. Anyway, following this case, the then MTA then appealed to the Supreme Court of the State and the Supreme Court upheld the Superior Court and said that the arbitrator did exceed his authority in putting just cause into this contract.

Okay, now lets deal with the Bill that passed the last session and the record as stated which I have here. It states here that just cause for dismissal and nonrenewable may be a negotiable item, and at that time members of this Legislature got up on the floor to argue for that Bill, and these were some of the statements that were made. By the way, I contended at that time because of information from my school superintendent, he stated that what is going to happen even if we use the word "may", that the arbitrators coming in would force just cause into contracts around the State. For the record, the Senator from Kennebec, Senator Katz stated "I think that it is incorrect to conclude that with the passage of this Bill the things that the Senator from Penobscot, Senator Trotzky said will necessarily occur. With the passage of this Bill it will be up to local control at the local level exactly what they negotiate."

And another statement, but it also says in the statutes that if a school unit wishes to bargain collectively and in a comprehensive contract grant the just cause provision it may do so. It did not have to do so, it may do so, and I can go on and on reading quotes out of legislative record from both branches of the Legislature. Since that time the following has taken place, I passed out a list to members of the Senate here, and by the way these arbitrators come from the American Arbitration Association and many of them most of them from what I heard at the hearing, come from areas all over the East Coast and go into a local school board, teacher disagreement, and make that final decision and then they leave. This is what took place in the past two years. The following units have had just cause written into their contract by interested arbitrators. Limestone, Portland on December 2, Woolwich, SAD 5 in Owsheeb, Rockland, and Thomaston, SAD 19 in Lubec, SAD 25 in Mount Chase Plantation, Pattern, Sherman, Stacyville, SAD 28 in Camden — Roc-

port, SAD 36 Fayette, Livermore, Livermore Falls, SAD 70 Harmony, Cary Plantation, Hainsville, SAD 74, Anson, Emden, Boothbay Harbor, Boothbay, Southern Arrostook, Wells, Farmington, Holden, and many others. This was not the intent of the Legislature when that Bill was passed and I believe the Senator from Kennebec, Senator Katz, will agree with me.

What the Bill presented by or report "D" would do as presented by Representative Lynch, it would state neither just cause nor the criterion and standards of job performance of teachers and other school employees shall be subject to interest arbitration. In other words, it would do exactly what the Senator from Kennebec stated two years ago. That just cause would not be forced into any teachers contract without the consent of the school boards. Now the second issue, the second issue deals with the Educational policy. The law states passed by this Legislature that teachers shall meet and consult but not negotiate with respect to educational policies. However, what has taken place with professional union negotiators if the Maine Teachers Association, they have come in and stated that every time you change educational policy it has some impact on the teachers, on their working conditions, and therefore, they have made many things, many items subject to negotiation by coming in with a back store approach.

I would like to read at this time, what was stated by one of the members of my school board at the education hearing. Okay, he stated, that the Bangor School Committee held 21 bargaining sessions alone in January with the Bangor Education Association. My superintendent stated that they spent \$18,000 to \$20,000, and these are costs to the taxpayers. I am sure that people here have not heard from the taxpayers but have heard from the members of the Maine Teachers Association via telegrams of all sorts and calls, but \$20,000 was spent on the collective bargaining process. Now this would be reduced considerably if the teachers could not come in every time and go through that back door approach and all the time an educational policy is changed come in and say that it had impact on the worker and, therefore, we want to negotiate, this item, and this item, and this item. Bangor has six or seven bargaining unit not in mediation, fact finding, and arbitration. And if I understand it that acceptance of the initial proposals by the teachers would lead to a massive tax revolt at least in my city.

Anyway the second part of the report "D" states very clearly that an item, however, an item which is an impact of education policy shall not be subject to in test arbitration until the Maine Labor Relations Board determines that the item shall be considered either a question of educational policy or item of negotiability. In other words, Report "D" states that before an item goes to arbitration if there is a dispute as to whether it is an educational policy or impact of educational policy it will go to the Maine Labor Relations Board which will make that decision. Under the amendment, in Committee Amendment, the New Draft Report, Report "A". It is my understanding that the Maine Labor Relations Board will decide after the arbitration process. I would appreciate some clarification on that issue.

The reasons this Bill came in late is because the Governor made every attempt to come up with a Bill that would be acceptable to both sides. It went through many drafts and the next problem was to find a sponsor for the Bill and being an election year it was very difficult to find a sponsor for it and the reasons for this and, I think that it should be made very clear is because all the labor groups in the state would probably back the teachers and the people did not want to go out and campaign in that kind of atmosphere. And this is the truth. This has taken place at the hearing, the American Federation of Labor, Maine AFL-CIO came in



backed the teachers and stated in their newsletter this marks the beginning of another assault on the basic principles of collective bargaining and we need to support the teachers and the MSEA came in and also stated that we support the teachers.

Well, I would like to go on and finish up right now because it is getting late and say that the people of the State of Maine, the taxpayers, and the taxpayers of this State of Maine are members of the AFL-CIO and they are members of the MSEA. The taxpayers of this State of Maine are represented by all of us here, under cut the statutory authority of elected school boards which are created to create an education system in each community to serve the needs of the children of this State and what is taking place today is that we are creating in each local community in the State of Maine an adversarial in which the rights of the children to a decent education are being forgotten.

I hope that the Senate will reject Report "A" and support Report "C".

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

Mr. KATZ: Mr. President, I think that the Senate now has a clear notion of the dividing lines, but I would like to say tisk, tisk to the Senator from Penobscot with respect to one remark. The fact that this is an election year made it difficult to find a sponsor. I think that nothing could be further from the truth. The reason that it was difficult to find a sponsor is because it was a sweeping Bill that made radical changes and everybody felt uncomfortable about the matter of making radical changes in the closing days of the session or in a session of short duration. I want the record to clearly indicate as if to dissipate this election year charge. I represent more state employees than any other human being in this state and I voted against collective bargaining for state employees when it was before the Senate, and I do not know if it was an election year or not, but I have a feeling that the members of this Legislature vote their conscience, not the perplexities an election year.

The PRESIDENT: The pending question before the Senate, is the motion by the Senator from Kennebec, Senator Katz, that the Senate accept Report "A" Ought to Pass in New Draft.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY, Mr. President and Members of the Senate: I would like to add that at the hearing members of School boards came in from Portland, Bangor, Lewiston, Bar Harbor, and other communities in the state to testify for this Bill. Members of the school boards of the State of Maine are elected officials like we are. I feel that we have an obligation to support the school boards, but also at the same time to protect the rights of the teachers of this state. Again I state it was stated very clearly that just cause, "just cause" we all believe in. However, it is a principal without standards. The school committee member from Bar Harbor said that the MTA is taking advantage of this just cause situation and targets key districts in an area and as soon as they get the just cause in those contracts the other smaller communities fall in line.

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

Mr. CONLEY: Mr. President and Members of the Senate: I find myself in very much of a quandary with respect to the four reports before us.

There is one thing that I am aware of and I am fully aware of and that is the right to collective bargaining. The good Senator from Penobscot, Senator Trotzky, mentioned the fact that how costly becomes to local communities for the purpose of bargaining. Well I can assure the good Senator that it cost the employees dearly also to have representation to do their bargaining whether they are public works em-

ployees, whether they are teacher, or whatever union the public employees may belong to.

Just recently the City of Portland, not dealing with the teachers contracts, but dealing with firemen themselves, decided that the best thing for the City to do was to hire a professional labor negotiator representing management. We received a Bill the other day for \$8,000 and we still have not settled a contract, but again I recognize the fact that we have a law on the statutes that gives the right to individuals to be able to sit down and negotiate just like you do in private business.

The good Senator from Penobscot, Senator Trotzky, states that "just cause" is without standards. Well there is another quotation rides and riding herd around the country the today, right to work that is without standards. I sort of joked earlier today with respect to the right to work Bill as to whether or not an amendment had been slipped in the Errors and Inconsistency Bill. Well, I remember back years ago people had a very difficult time, unions in particular, dealing with private management at trying to arrive at a decent wage and I believe that public employees have a difficult time trying to arrive at what I consider to be a working wage and we recognize only to fully that when municipalities or communities employ individuals, that obviously the taxpayers of the communities are going to have to pay those salaries.

I think that everyone in this country is entitled to a decent wage and I think that there should be protection under the collective bargaining, the rights that no one is going to be dismissed from their employment without just cause and I look upon this particular Legislation as an encroachment on the rights of a teacher to be fully employed. Now some will say that the good Senator from Cumberland, Senator Conley, was supported by the Maine Teachers Association in the last election and that he may be supported by the Maine Teachers Association in the next election if I choose to run, but aside from that I could care less. I have blasted the Maine Teachers Association and Portland Teachers Association and it is a matter of public record the things that I have not agreed with. I have been responsible for cutting school budgets in the City of Portland \$418,000. the first year I was on the Council. This is a principle that I believe in strongly that any individual as I say whether they are with the MTA or public employees union should have the equal protection under the law as those who are working under private management, and I find myself in a quandary because I really do not want to fall into a situation where I end up supporting the good Senator from Kennebec, Senator Katz, as a compromise measure and having that fail only to see the good Senator from Penobscot, Senator Trotzky win with the report that he is supporting.

But I think everyone should examine their conscience. The good Senator from Kennebec, Senator Katz, stated that he voted against collective bargaining at a time that the Bill came before this Senate. I was a member of that Senate and there was a question in my mind at the time as to whether or not the union representatives were in support of collective bargaining. Then I found myself in quandary that day. But I think that we have a statute on the book that deals wholly with that. I think that there are 63 contracts dealing with teachers throughout the state that do have just cause provisions within their contract. This confusion to me today with respect to the law as it was changed a few years ago, that just cause may be a negotiable item. Well, I always thought that just cause was a negotiable item, but apparently there was a court case ruled otherwise because of the fact that an arbitrator had awarded it. I personally think that just cause should continue to be a negotiable item at the bargaining table, and that is what I hope that this Legislature will end up with.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Kennebec, Senator Katz, that the Senate accept Report "A" Ought to Pass in New Draft.

The Chair will order a Division.

Will all those Senators in favor of accepting the Ought to Pass in New Draft Report 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 18 Senators in the negative, the Motion to accept the Ought to Pass in New Draft Report does not prevail.

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

Mr. TROTZKY: Mr. President, I pose a question through the Chair. The Senate did not accept the Ought to Pass in New Draft Report, is it now in order to move that the Senate accept Report "D"?

The PRESIDENT: The Chair would answer in the affirmative.

Mr. TROTZKY: I move that the Senate accept Report "D".

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, now moves that the Senate accept Report "D" of the Committee which is Ought to Pass as amended by Committee Amendment "B".

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of accepting Committee Report "D" please rise in their places to be counted.

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

11 Senators having voted in the affirmative and 18 Senators in the negative, the Motion to accept Report "D" does not prevail.

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

Mr. TROTZKY: Mr. President, I move that this Bill be Tabled for One Legislative Day.

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

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

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

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

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

8 Senators having voted in the affirmative and 20 Senators in the negative, the Motion to table does not prevail.

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

Mr. CONLEY: Mr. President, I move that this Bill and all accompanying papers be indefinitely postponed.

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

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President and Members of the Senate: I have some amendments to offer but cannot offer them right now, but I think I would like to describe them because they are worth considering and these were discussed by the Education Committee and that is why I am asking the Senate not to indefinitely postpone this Bill and its accompanying papers.

The concern here with the old system was that after a school board dismissed a teacher after a hearing, after public hearing, the teacher could take up to 18 to 20 months in the courts for the teacher to go to the courts to show that



the teacher was dismissed arbitrarily capriciously, without reason. One of the amendments that I would like to offer if this Bill stays alive would state that go back to the old system the school board would hold its hearing on the teacher and of course the teacher is protected by due process of the 14th amendment and there must be reasons, there must be reasons before a teacher could be dismissed. If the teacher thought that he was dismissed arbitrarily this amendment would state that he would go to the court and the court would have to rule within 60 days and if this Bill stays alive, I would like to offer that amendment.

Another amendment that I have here is just cause, that we put a moratorium on any more just cause provisions being put into teacher contracts for two years until this issue can be resolved as to what is taking place in the State of Maine now is not what the Legislature intended.

I hope that the Senate would not go along with the move to indefinitely postpone.

I request a Roll Call.

The PRESIDENT: A Roll Call has been requested.

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

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

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

The Chair recognizes the Senator from Hancock, Senator McNally.

Mr. McNALLY: Mr. President, is it permissible for me to say something about the Bill with the four ways to travel?

The PRESIDENT: The Chair would answer in the affirmative.

Mr. McNALLY: Well, I would like to say that I know that some people here think that it is funny the way I voted on the Bill. In the first place I never was able to read the Bill until I could get it in the book and that was some 10 minutes ago. Now there is no question what you are doing with the Bill as it is set up with "D" as being the amendment is your going to repeal part of a law that you passed only two or three years ago and then go ahead and add something else on. The first part of the Bill, which has a study, is going along about the same way that we did with Representative Lewis Bill whereby that she wanted to tax all the people who had to pay unemployment taxes as if they used up all of the money and not longer was paying anything in that they should still be assessed has never been acted on as yet, and I thought that it was a very good idea to have a study along these lines and probably if it was possible that a study might bring out enough people who think that the time had come for it. But for a 10 minute discussion right off quick, I cannot see it.

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

Mr. MERRILL: Mr. President, I rise just as a point of parliamentary clarification. The motion as I understand it put by the good Senator from Cumberland is a Motion to indefinitely postpone, not knowing what Bill is before us and not even knowing if there is a Bill before us, I would raise the question as to what is the posture, what is being indefinitely postponed at this time?

The PRESIDENT: The Chair would advise the Senator that the original Bill, and all of its accompanying papers, is before the Senate at this time.

Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: I request leave of the Senate to withdraw my request for a Roll Call.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, now requests leave of the Senate to withdraw his request for a Roll Call in this matter. Is it the pleasure of the

Senate to grant this leave? It is a vote.

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

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I do not understand exactly why the good Senator has requested to withdraw his request for a Roll Call. I know that this is an item on which most people are not anxious to vote but I am a little surprised by his motion. It seems to me that the Governor of the State at least deserves a Roll Call on an issue of such importance.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the indefinite postponement of this Bill and all its accompanying papers please rise in their places to be counted.

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

20 Senators having voted in the affirmative and 9 Senators in the negative, the motion to Indefinitely Postpone does prevail.

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

Mr. KATZ: I move that the Senate reconsider its action whereby this Bill was indefinitely postponed.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that the Senate reconsider its action whereby it indefinitely postponed L. D. 2155.

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.

Sent down for concurrence.

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

#### Paper from the House Non-concurrent Matter

Bill, "An Act to Clarify the Education Laws." (H. P. 2018) (L. D. 2093)

In the Senate, March 17, 1978, Passed to be Engrossed as amended by Senate Amendments "A" (S-557) and "B" (S-564), and House Amendment "A" (H-1148) in non-concurrence.

Comes from the House, Passed to be Engrossed as amended by Senate Amendment "B" and House Amendment "A" as amended by House Amendment "A" (H-1211) thereto, in non-concurrence.

On Motion of Mr. Speers of Kennebec, the Senate voted to Recede and Concur.

#### Communication

House of Representatives

March 17, 1978

Honorable May M. Ross

Secretary of the Senate

108th Legislature

Augusta, Maine 04333

The House today voted to Insist and Join in a Committee of Conference on Bill "An Act to Facilitate Recruitment and Retention of Outstanding Persons for Policy-making Positions in State Service" (Emergency) (S. P. 672) (L. D. 2076)

Respectfully

Signed:

EDWIN H. PERT

Clerk of the House

Which was Read and Ordered Placed on File.

#### Orders of the Day.

The President laid before the Senate:  
Joint Order — Relative to Amending Joint Rule 23. (H. P. 2254)

Tabled — Earlier in the Day by Senator Speers of Kennebec

Pending — passage

On Motion of Mr. Speers of Kennebec, Re-tabled for One Legislative Day.

The President laid before the Senate:  
Joint Order — Relative to Amending Joint Rule 22. (H. P. 2256)

Tabled — Earlier in the Day by Senator Speers of Kennebec

Pending — Passage

On Motion of Mr. Speers of Kennebec, Re-tabled for one Legislative Day.

The President laid before the Senate:  
Joint Order — Relative to Amending Joint Rule 39. (H. P. 2252)

Tabled — Earlier in the Day by Senator Speers of Kennebec

Pending — Passage

On Motion of Mr. Speers of Kennebec, Re-tabled for One Legislative Day.

The President laid before the Senate:  
Bill, "An Act Relating to Appropriating Funds for Certain Municipal Governments." (H. P. 2096) (L. D. 2139)

Tabled — Earlier in the Day by Senator Merrill of Cumberland

Pending — Adoption of Senate Amendment

"A" (S-581)

On Motion of Mr. Speers of Kennebec, Re-tabled for One Legislative Day.

The President laid before the Senate:  
Joint Order — Relative to Amending Joint Rule 40. (H. P. 2264)

Tabled — Earlier in the Day by Senator Speers of Kennebec

Pending — Passage

On Motion of Mr. Speers of Kennebec, Re-tabled for One Legislative Day.

(Off Record Remarks)

On Motion of Mr. Huber of Cumberland, Adjourned until 10:30 in the morning Tuesday, March 21, 1978.